

A NONSUBSTANTIVE REVISION
OF STATUTES RELATING TO
INSURANCE FEES AND TAXES, CONSUMER INTERESTS,
HEALTH INSURANCE AND RELATED PRODUCTS, TITLE INSURANCE,
AND INSURANCE INDUSTRY PROFESSIONALS

Submitted to the 78th Legislature
as part of the
Texas Legislative Council's
Statutory Revision Program

Austin, Texas

2003

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CHAPTER 201. COLLECTION OF REVENUE AND ADMINISTRATION OF FUNDS

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 201.001. TEXAS DEPARTMENT OF INSURANCE OPERATING ACCOUNT. (a) The Texas Department of Insurance operating account is an account in the general revenue fund. The account includes the following:

(1) taxes and fees received by the commissioner or comptroller that are required by this code to be deposited to the credit of the account; and

(2) money or credits received by the department or commissioner from sales, reimbursements, and fees authorized by law other than this code, including money or credits received from:

(A) charges for providing copies of public information under Chapter 552, Government Code;

(B) the disposition of surplus or salvage property under Subchapters C and D, Chapter 2175, Government Code;

(C) the sale of publications and other printed material under Section 2052.301, Government Code;

(D) miscellaneous transactions and sources under
Section 403.011 or 403.012, Government Code;

(E) charges for postage spent to serve legal process under Section 17.025, Civil Practice and Remedies Code;

(F) the comptroller involving warrants for which payment is barred under Chapter 404, Government Code;

(G) sales or reimbursements authorized by the General Appropriations Act; and

(H) the sale of property purchased with money from the account or a predecessor fund or account.

(b) The commissioner shall administer money in the account and may spend money from the account in accordance with state law, rules adopted by the commissioner, and the General Appropriations

1 Act.

2 (c) Money deposited to the credit of the account may be used
3 for any purpose for which money in the account is authorized to be
4 used by law. (V.T.I.C. Art. 1.31A, Secs. 2, 3, 4, 5, 6(a).)

5 Source Law

6 Sec. 2. The Texas Department of Insurance
7 operating fund is a fund in the State Treasury.

8 Sec. 3. Money received by the commissioner or
9 comptroller from taxes and fees that are required by
10 this code to be credited to the fund and money received
11 by the commissioner from sales, reimbursements, and
12 fees authorized by law other than this code shall be
13 deposited in the fund.

14 Sec. 4. The money received from sales,
15 reimbursements, and other fees authorized by law other
16 than this code includes money received from the
17 following:

18 (1) fees received by the department for
19 providing copies of public records under Chapter 552,
20 Government Code;

21 (2) money or credits received by the
22 department for surplus or salvage property under
23 Subchapters C and D, Chapter 2175, Government Code;

24 (3) money received by the department from
25 the sale of publications and other printed material
26 under Sections 2052.301 and 2052.302, Government Code;

27 (4) receipts to the department from
28 miscellaneous transactions and sources under Section
29 403.011 or 403.012, Government Code, as amended;

30 (5) money received by the department from
31 charges for postage spent to serve legal process under
32 Section 17.025, Civil Practice and Remedies Code;

33 (6) receipts to the department from the
34 comptroller involving warrants for which payment is
35 barred under Chapter 404, Government Code, as amended;

36 (7) money received by the department from
37 sales or reimbursements authorized by the General
38 Appropriations Act; and

39 (8) money received by the department from
40 the sale of any property purchased with money from the
41 fund or a predecessor fund.

42 Sec. 5. The money in the fund may be used for the
43 purposes for which any of the money deposited in the
44 fund is authorized to be used by law.

45 Sec. 6. (a) The commissioner shall administer
46 and may spend money from the fund pursuant to laws of
47 the state, rules adopted by the commissioner, and the
48 General Appropriations Act.

49 Revisor's Note

50 (1) Section 2, V.T.I.C. Article 1.31A, creates
51 an operating fund in the state treasury for the Texas
52 Department of Insurance. Under the authority of
53 Chapter 4, Acts of the 72nd Legislature, 1st Called
54 Session, 1991, the Texas Department of Insurance
55 operating fund was converted to an account in the

1 general revenue fund. Throughout this chapter,
2 references to the fund have been changed as
3 appropriate. In addition, Section 1, V.T.I.C. Article
4 1.31A, defines "fund" as the Texas Department of
5 Insurance operating fund. The revised law omits this
6 definition as unnecessary and because the fund is now
7 an account. The omitted law reads:

8 Art. 1.31A
9 Sec. 1. In this article, "fund" means
10 the Texas Department of Insurance operating
11 fund.

12 (2) Section 4(1), V.T.I.C. Article 1.31A,
13 refers to fees received for providing copies of
14 "public records" under Chapter 552, Government Code.
15 Chapter 1035, Acts of the 74th Legislature, Regular
16 Session, 1995, changed the heading of Chapter 552,
17 Government Code, from "Open Records" to "Public
18 Information" and in addition deleted references to
19 "public records" and instead referred to "information"
20 or "public information" throughout Chapter 552. For
21 consistency with those changes, the revised law
22 substitutes "public information" for "public
23 records."

24 (3) Section 4(3), V.T.I.C. Article 1.31A,
25 requires that money received by the department from
26 the sale of publications and other printed material
27 under "Sections 2052.301 and 2052.302, Government
28 Code," be deposited to the credit of the Texas
29 Department of Insurance operating fund. Section
30 2052.302, Government Code, prohibits an officer or
31 employee of the state from receiving an economic
32 benefit from an activity related to an agency
33 publication or other printed material and does not
34 relate to the authority of the Texas Department of
35 Insurance to receive money for such a publication or

1 other printed material. Therefore, the revised law
2 omits the reference to Section 2052.302, Government
3 Code.

4 (4) Sections 4(4) and (6), V.T.I.C. Article
5 1.31A, refer to Section 403.011 or 403.012, Government
6 Code, "as amended," and Chapter 404, Government Code,
7 "as amended." The revised law omits the references to
8 "as amended" because under Section 311.027, Government
9 Code (Code Construction Act), unless expressly
10 provided otherwise, a reference to a statute applies
11 to all reenactments, revisions, or amendments of the
12 statute.

13 Revised Law

14 Sec. 201.002. ACCOUNTING PROCEDURE. The commissioner
15 shall maintain a procedure to account for the receipt,
16 disbursement, and allocation of money deposited in the Texas
17 Department of Insurance operating account, including recordkeeping
18 procedures adequate for:

19 (1) the commissioner or comptroller, as applicable, to
20 adjust the tax assessments and fee schedules as authorized by this
21 code; and

22 (2) the state auditor to determine the source of all
23 receipts and expenditures. (V.T.I.C. Art. 1.31A, Sec. 6(b).)

24 Source Law

25 (b) The commissioner is responsible for the
26 development and maintenance of an accounting procedure
27 for the receipt, allocation, and disbursement of money
28 deposited in the fund. The procedure shall require
29 adequate records for the commissioner or comptroller,
30 if applicable, to adjust the tax assessments and fee
31 schedules as authorized by this code and for the State
32 Auditor to determine the source of all receipts and
33 expenditures.

34 Revisor's Note

35 Section 6(b), V.T.I.C. Article 1.31A, provides
36 for the "development and maintenance of an accounting
37 procedure." The revised law omits the reference to
38 "development" of the procedure as executed.

1 Revised Law

2 Sec. 201.003. REFUNDS. If the department determines that a
3 person, firm, or corporation through mistake of law or fact
4 erroneously paid or overpaid a fee or other amount of money,
5 including any interest or penalty, administered or collected by the
6 department, the department may refund the erroneous payment or
7 overpayment by warrant on the state treasury from any funds
8 appropriated for that purpose. (V.T.I.C. Art. 1.31.)

9 Source Law

10 Art. 1.31. This article applies to any tax, fee,
11 or other sum of money, including any interest or
12 penalty, collected or administered by the State Board
13 of Insurance. When the State Board of Insurance
14 determines that any person, firm, or corporation has
15 through mistake of law or fact overpaid or paid
16 erroneously any amount to the state on any tax, fee, or
17 other sum of money, including any interest or penalty,
18 collected or administered by the State Board of
19 Insurance, the State Board of Insurance may refund
20 such payment by warrant on the state treasury from any
21 funds appropriated for such purpose.

22 Revisor's Note

23 (1) V.T.I.C. Article 1.31 refers to the "State
24 Board of Insurance." Chapter 685, Acts of the 73rd
25 Legislature, Regular Session, 1993, abolished the
26 board and transferred its functions to the
27 commissioner of insurance and the Texas Department of
28 Insurance. Throughout this chapter, references to the
29 board have been changed appropriately.

30 (2) V.T.I.C. Article 1.31 provides that the
31 department may refund any tax "collected or
32 administered by the State Board of Insurance" that is
33 overpaid or paid erroneously. Chapter 685, Acts of the
34 73rd Legislature, Regular Session, 1993, transferred
35 to the comptroller responsibility for the
36 administration, collection, enforcement, and
37 reporting of insurance taxes, "[e]xcept as otherwise
38 expressly provided for in this code or another
39 insurance law of this state." There is no other law

1 that provides for an entity other than the comptroller
2 to administer, collect, enforce, and report insurance
3 taxes. In addition, the comptroller's office has
4 confirmed that the comptroller administers, collects,
5 enforces, and reports all insurance taxes. Therefore,
6 the revised law omits the reference to taxes because
7 the department and commissioner no longer administer
8 insurance taxes.

9 Revised Law

10 Sec. 201.004. ELECTRONIC TRANSFERS. (a) The commissioner
11 shall adopt rules for the electronic transfer of any fee, guarantee
12 fund, or other money owed to or held for the benefit of this state
13 that the department has the responsibility to administer under this
14 code or another insurance law of this state.

15 (b) The commissioner shall require the electronic transfer
16 of any amount held or owed that exceeds \$500,000. (V.T.I.C.
17 Art. 1.10, Sec. 20.)

18 Source Law

19 Sec. 20. The Commissioner shall adopt rules for
20 the electronic transfer of any taxes, fees, guarantee
21 funds, or other money owed to or held for the benefit
22 of the state and for which the Department has the
23 responsibility to administer under this code or
24 another insurance law of this state. The Commissioner
25 shall require the electronic transfer of any amounts
26 held or owed in an amount exceeding \$500,000.

27 Revisor's Note

28 Section 20, V.T.I.C. Article 1.10, requires the
29 commissioner to adopt rules for the electronic
30 transfer of "taxes . . . for which the Department has
31 the responsibility to administer" The revised
32 law omits the references to taxes for the reason stated
33 in Revisor's Note (2) to Section 201.003.

34 Revised Law

35 Sec. 201.005. TRANSFER OF SECURITIES. (a) A transfer by
36 the department of any security that is held in any way by the
37 department is not valid unless the transfer is countersigned by the

1 comptroller.

2 (b) The comptroller shall:

3 (1) countersign any security transfer presented by the
4 department;

5 (2) keep a record of all transfers that includes:

6 (A) the name of the transferee, unless the
7 security is transferred in blank; and

8 (B) a description of the security;

9 (3) when countersigning a security transfer, advise
10 the company concerned by mail of the details of the transaction; and

11 (4) state, in the comptroller's annual report to the
12 legislature, the countersigned transfers and the amount of the
13 transfers.

14 (c) To verify the correctness of records:

15 (1) the department is entitled to free access to the
16 comptroller's records kept under Subsection (b); and

17 (2) the comptroller is entitled to free access to the
18 books and other department documents relating to securities held by
19 the department. (V.T.I.C. Arts. 1.20, 1.21, 1.22.)

20 Source Law

21 Art. 1.20. No transfer by the Board of
22 securities of any kind, in any way held by it, shall be
23 valid unless countersigned by the comptroller.

24 Art. 1.21. It is the duty of the comptroller:

25 1. To countersign any such transfer
26 presented to him by the Board.

27 2. To keep a record of all transfers,
28 stating the name of the transferee, unless transferred
29 in blank, and a description of the security.

30 3. Upon countersigning, to advise by mail
31 the company concerned, the particulars of the
32 transaction.

33 4. In his annual report to the Legislature
34 to state the transfers and the amount thereof,
35 countersigned by him.

36 Art. 1.22. To verify the correctness of
37 records, the Board shall be entitled to free access to
38 the comptroller's records, required by the preceding
39 article, and the comptroller shall be entitled to free
40 access to the books and other documents of the
41 Insurance Department relating to securities held by
42 the Board.

43 Revisor's Note

44 (End of Subchapter)

45 V.T.I.C. Article 1.31B provides that the board's

1 financial transactions are subject to audit by the
2 state auditor. The revised law omits the article as
3 unnecessary because Section 321.013, Government Code,
4 requires the state auditor to conduct audits of all
5 departments as specified in the audit plan. It is
6 unnecessary to repeat that provision in this chapter.

7 The omitted law reads:

8 Art. 1.31B. The financial
9 transactions of the State Board of
10 Insurance are subject to audit by the state
11 auditor in accordance with Chapter 321,
12 Government Code.

13 [Sections 201.006-201.050 reserved for expansion]

14 SUBCHAPTER B. ADMINISTRATION

15 Revised Law

16 Sec. 201.051. POWERS AND DUTIES OF COMPTROLLER. (a)
17 Except as otherwise provided by this code or another insurance law
18 of this state, the comptroller shall administer and enforce the
19 provisions of this code and other insurance laws of this state that
20 relate to the administration, collection, and reporting of taxes
21 and certain fees and assessments imposed under this code or another
22 insurance law of this state, as specifically provided by this code.

23 (b) The comptroller may:

24 (1) adopt rules to implement the administration,
25 collection, reporting, and enforcement responsibilities assigned
26 to the comptroller under this code or another insurance law of this
27 state; and

28 (2) prescribe appropriate report forms, establish or
29 alter tax report due dates not otherwise specifically prescribed by
30 this code or another insurance law of this state, and otherwise
31 adapt the functions transferred to the comptroller under Chapter
32 685, Acts of the 73rd Legislature, Regular Session, 1993, to
33 increase efficiency and cost-effectiveness.

34 (c) A rule adopted by the comptroller that relates to the
35 administration, collection, reporting, or enforcement of taxes
36 imposed under this code prevails over a conflicting rule, policy,

1 or procedure established by the department, the commissioner, or
2 otherwise.

3 (d) Subtitles A and B, Title 2, Tax Code, apply to the
4 administration, collection, and enforcement by the comptroller of
5 taxes and certain fees and assessments under this code or another
6 insurance law of this state. Except as otherwise provided by this
7 code, the powers granted to the comptroller under those provisions
8 of the Tax Code do not limit and are exclusive of the powers granted
9 to the department or the commissioner in relation to other fees and
10 assessments under this code. (V.T.I.C. Art. 1.04D, Secs. (a), (c),
11 (d).)

12 Source Law

13 Art. 1.04D. (a) Except as otherwise expressly
14 provided for in this code or another insurance law of
15 this state, the comptroller shall administer, enforce,
16 and carry out the provisions of this code and other
17 insurance laws of this state that relate to the
18 collection, reporting, and administration of taxes and
19 certain fees and assessments imposed under this code
20 or another insurance law of this state, as
21 specifically provided in this code.

22 (c) The comptroller may adopt rules to carry out
23 the collection, reporting, enforcement, and
24 administration responsibilities assigned to the
25 comptroller under this code or another insurance law
26 of this state. The comptroller may also prescribe
27 appropriate report forms, establish or alter tax
28 return due dates not otherwise specifically set forth
29 in this code or another insurance law of this state,
30 and otherwise adapt the functions transferred to the
31 comptroller to increase efficiency and
32 cost-effectiveness. With respect to rules related to
33 the collection, reporting, enforcement, or otherwise
34 to the administration of taxes imposed under this
35 code, rules adopted by the comptroller shall prevail
36 in the event of conflict with rules, policies, or
37 procedures established by the department, the
38 commissioner, or otherwise.

39 (d) With respect to the comptroller's
40 performance of the duties relative to the taxes, fees,
41 and assessments imposed under this code or another
42 insurance law of this state, the comptroller has the
43 administrative, enforcement, and collection powers
44 provided by Subtitles A and B, Title 2, Tax Code, and
45 their subsequent amendments. Except as otherwise
46 expressly provided by this code, those powers are
47 granted to the comptroller without limiting and
48 exclusive of powers granted to the department or the
49 commissioner with respect to other fees and
50 assessments under this code.

51 Revisor's Note

52 (1) Section (a), V.T.I.C. Article 1.04D,

1 requires the comptroller to administer, enforce, and
2 "carry out" the law relating to the collection,
3 reporting, and administration of insurance taxes and
4 certain fees and assessments. The revised law omits
5 the reference to "carry out" as unnecessary because,
6 in context, it is included within the meaning of
7 "administer" and "enforce."

8 (2) Section (c), V.T.I.C. Article 1.04D, refers
9 to a "tax return." Throughout this chapter, the
10 revised law substitutes "tax report" for "tax return"
11 because, in the context of tax law, a "tax return" is
12 synonymous with a "tax report" and the latter is more
13 commonly used.

14 (3) Section (c), V.T.I.C. Article 1.04D, refers
15 to "functions transferred to the comptroller," meaning
16 functions transferred by Chapter 685, Acts of the 73rd
17 Legislature, Regular Session, 1993, which transferred
18 to the comptroller the duties relating to the
19 administration, collection, enforcement, and
20 reporting of insurance taxes and certain fees and
21 assessments. The revised law adds a reference to this
22 law for clarity and for the convenience of the reader.

23 (4) Section (d), V.T.I.C. Article 1.04D, refers
24 to Subtitles A and B, Title 2, Tax Code, "and their
25 subsequent amendments." The revised law omits the
26 reference to "and their subsequent amendments" for the
27 reason stated in Revisor's Note (4) to Section 201.001.

28 Revised Law

29 Sec. 201.052. REIMBURSEMENT. (a) The department shall
30 reimburse the appropriate portion of the general revenue fund for
31 the amount of expenses incurred by the comptroller in administering
32 taxes imposed under this code or another insurance law of this
33 state.

34 (b) The comptroller shall certify to the commissioner the

1 total amount of expenses estimated to be required to perform the
2 comptroller's duties under this code or another insurance law of
3 this state for each fiscal biennium. The comptroller shall provide
4 copies of the certification to the budget division of the
5 governor's office and to the Legislative Budget Board.

6 (c) The amount certified by the comptroller shall be
7 transferred from the Texas Department of Insurance operating
8 account to the appropriate portion of the general revenue fund. It
9 is the legislature's intent that money in the Texas Department of
10 Insurance operating account to be transferred under this subsection
11 should reflect the revenues from maintenance taxes paid by insurers
12 under this code or another insurance law of this state.

13 (d) In setting maintenance taxes for each fiscal year, the
14 commissioner shall ensure that the amount of taxes imposed is
15 sufficient to fully reimburse the appropriate portion of the
16 general revenue fund for the amount of expenses incurred by the
17 comptroller in administering taxes imposed under this code or
18 another insurance law of this state.

19 (e) If the amount of maintenance taxes collected is not
20 sufficient to reimburse the appropriate portion of the general
21 revenue fund for the amount of expenses incurred by the
22 comptroller, other money in the Texas Department of Insurance
23 operating account shall be used to reimburse the appropriate
24 portion of the general revenue fund. (V.T.I.C. Art. 4.19.)

25 Source Law

26 Art. 4.19. (a) The department shall reimburse
27 the general revenue fund for the amount of expenses
28 incurred by the comptroller in administering the taxes
29 imposed under this code or another insurance law of
30 this state in accordance with this article.

31 (b) The comptroller shall certify to the
32 commissioner the total amount of expenses estimated to
33 be required to perform the comptroller's duties under
34 this code or another insurance law of this state for
35 each fiscal biennium. The comptroller shall provide
36 copies of the certification to the budget division of
37 the governor's office and to the Legislative Budget
38 Board.

39 (c) The amount certified by the comptroller
40 under Subsection (b) of this article shall be
41 transferred from the Texas Department of Insurance
42 operating fund to the general revenue fund. It is the

1 intent of the legislature that the money in the
2 department's operating fund that is to be transferred
3 into the general revenue fund under this subsection
4 should reflect the revenues from the various
5 maintenance taxes paid by insurers under this code or
6 other insurance laws of this state.

7 (d) In setting the maintenance taxes for each
8 fiscal year, the commissioner shall ensure that the
9 amount of the taxes imposed is sufficient to fully
10 reimburse the general revenue fund for the expenses
11 incurred by the comptroller in administering the taxes
12 imposed under this code and other insurance laws of
13 this state. If the amount of maintenance taxes
14 collected is insufficient to reimburse the general
15 revenue fund for the expenses incurred by the
16 comptroller in administering the taxes imposed under
17 this code and other insurance laws of this state, other
18 money in the department's operating fund shall be used
19 to reimburse the general revenue fund in accordance
20 with Subsection (b) of this article.

21 Revisor's Note

22 V.T.I.C. Article 4.19 requires that the Texas
23 Department of Insurance "reimburse the general revenue
24 fund" for the amount of the comptroller's expenses in
25 administering the collection of insurance taxes, with
26 the amount of the reimbursement transferred from "the
27 Texas Department of Insurance operating fund to the
28 general revenue fund." Because the Texas Department
29 of Insurance operating fund has been converted to an
30 account in the general revenue fund, the revised law
31 substitutes a requirement that "the appropriate
32 portion of the general revenue fund" be reimbursed.
33 This substitution reflects the clear intent of the
34 legislature that money be transferred from the Texas
35 Department of Insurance operating account to a portion
36 of the general revenue fund from which the money may be
37 appropriated to pay for the comptroller's expenses
38 incurred in performing duties under the Insurance
39 Code.

40 Revised Law

41 Sec. 201.053. COOPERATION BETWEEN DEPARTMENT AND
42 COMPTROLLER. The commissioner and the comptroller shall cooperate
43 fully in performing their respective duties under this code or
44 another insurance law of this state. (V.T.I.C. Art. 4.18, Sec.

1 (a).)

2 Source Law

3 Art. 4.18. (a) The commissioner and the
4 comptroller shall cooperate fully in performing their
5 respective duties under this code and other insurance
6 laws of this state.

7 Revised Law

8 Sec. 201.054. INFORMATION SHARING; FEDERAL IDENTIFICATION
9 NUMBERS. (a) The department shall comply with each reasonable
10 request from the comptroller relating to the sharing of information
11 gathered or compiled in connection with functions the comptroller
12 performs under this code or another insurance law of this state.

13 (b) The department shall maintain a record of the federal
14 identification number of each entity subject to regulation under
15 this code or another insurance law of this state and shall include
16 the appropriate number in any communication to or information
17 shared with the comptroller relating to that entity. (V.T.I.C.
18 Art. 4.18, Secs. (b), (c).)

19 Source Law

20 (b) The department shall comply with all
21 reasonable requests of the comptroller relating to the
22 sharing of information gathered or compiled in
23 connection with functions carried out under this code
24 or other insurance laws of this state.

25 (c) The department shall maintain the federal
26 identification number of all entities subject to
27 regulation under this code or another insurance law of
28 this state and shall include the appropriate number in
29 any communication to or information shared with the
30 comptroller.

31 Revised Law

32 Sec. 201.055. FILING DATE OF REPORT OR PAYMENT DELIVERED BY
33 POSTAL SERVICE. Except as otherwise specifically provided, for a
34 report, including a tax report, or payment that is required to be
35 filed or made in the offices of the comptroller and that is
36 delivered by the United States Postal Service to the offices of the
37 comptroller after the date on which the report or payment is
38 required to be filed or made, the date of filing or payment is the
39 date of:

40 (1) the postal service postmark stamped on the cover

1 in which the report or payment is mailed; or

2 (2) any other evidence of mailing authorized by the
3 postal service reflected on the cover in which the report or payment
4 is mailed. (V.T.I.C. Art. 1.11 (part), as amended Acts 77th Leg.,
5 R.S., Ch. 1419.)

6 Source Law

7 Art. 1.11. If . . . any report, tax return, or
8 payment required to be filed or deposited in the
9 offices of the comptroller, is delivered by the United
10 States Postal Service to the offices of the
11 . . . comptroller, as required, after the prescribed
12 date on which the report, . . . tax return, or payment
13 is to be filed, the date of the United States Postal
14 Service postmark stamped on the cover in which the
15 document is mailed, or any other evidence of mailing
16 authorized by the United States Postal Service
17 reflected on the cover in which the document is mailed,
18 shall be deemed to be the date of filing, unless
19 otherwise specifically made an exception to this
20 general statute.

21 CHAPTER 202. FEES

22 SUBCHAPTER A. GENERAL PROVISIONS

23 Sec. 202.001. APPLICABILITY OF CHAPTER. 23
24 Sec. 202.002. DETERMINATION OF FEES 24
25 Sec. 202.003. FEES FOR COPIES 24
26 Sec. 202.004. REDUCED FEES FOR CERTAIN INSURERS. 25

27 [Sections 202.005-202.050 reserved for expansion]

28 SUBCHAPTER B. SPECIFIC MAXIMUM FEES

29 Sec. 202.051. GENERAL FEES IMPOSED ON INSURERS 25
30 Sec. 202.052. FEES IMPOSED ON CERTAIN INSURERS 28

31 [Sections 202.053-202.100 reserved for expansion]

32 SUBCHAPTER C. DEPOSIT AND USE OF FEES

33 Sec. 202.101. DEPOSIT AND USE OF FEES GENERALLY 30
34 Sec. 202.102. DEPOSIT AND USE OF CERTAIN OTHER FEES. 31

35 CHAPTER 202. FEES

36 SUBCHAPTER A. GENERAL PROVISIONS

37 Revised Law

38 Sec. 202.001. APPLICABILITY OF CHAPTER. Except as provided
39 by Section 202.052, the insurers that are subject to a fee imposed
40 under this chapter include:

(1) stock insurance companies;
(2) mutual insurance companies;
(3) local mutual aid associations;
(4) statewide mutual assessment companies;
(5) group hospital service corporations; and
(6) stipulated premium companies. (V.T.I.C.
Art. 4.07, Sec. D.)

Source Law

D. Except as provided by Section B of this Article, the insurers subject to the fees imposed by this Article shall include any and all stock and mutual insurance companies, local mutual aid associations, statewide mutual assessment companies, group hospital service plan corporations, and stipulated premium insurance companies.

Revisor's Note

Section D, V.T.I.C. Article 4.07, refers to "group hospital service plan corporations." The term most frequently used to refer to such corporations is "group hospital service corporations." Consequently, the revised law substitutes for the quoted language "group hospital service corporations" to provide for consistent use of terminology throughout this code.

Revised Law

Sec. 202.002. DETERMINATION OF FEES. The department shall, subject to the limits established by this chapter, set the amount of the fees imposed under this chapter. (V.T.I.C. Art. 4.07, Secs. A (part), C.)

Source Law

A. . . . [the Texas Department of Insurance shall charge . . . fees in an amount] to be determined by the department

C. The department shall, within the limits fixed by this Article, prescribe the fees to be charged under this Article.

Revised Law

Sec. 202.003. FEES FOR COPIES. (a) The department shall set and collect a fee for copying any paper of record with the department. The fee shall be set in an amount sufficient to

1 reimburse the state for the actual expense.

2 (b) The department may make and distribute copies of a paper
3 containing rating information without charge or for a fee that the
4 commissioner considers appropriate for administering the premium
5 rating laws by properly distributing rating information.

6 (c) This section does not affect Article 5.29. (V.T.I.C.
7 Art. 4.07, Sec. E.)

8 Source Law

9 E. The Texas Department of Insurance shall set
10 and collect a sales charge for making copies of any
11 paper of record in the Texas Department of Insurance,
12 such charge to be in an amount deemed sufficient to
13 reimburse the State for the actual expense; provided,
14 however, that the department may make and distribute
15 copies of papers containing rating information without
16 charge or for such charge as the commissioner shall
17 deem appropriate to administer the premium rating laws
18 by properly disseminating such rating information; and
19 provided further that Article 5.29, Texas Insurance
20 Code, shall remain in full force and effect without
21 amendment.

22 Revised Law

23 Sec. 202.004. REDUCED FEES FOR CERTAIN INSURERS. An
24 insurer to which this chapter applies that had gross premium
25 receipts of less than \$450,000, according to the insurer's annual
26 statement for the preceding year ending December 31, is required to
27 pay only one-half the amount of a fee otherwise required to be paid
28 under this chapter. (V.T.I.C. Art. 4.07, Sec. H.)

29 Source Law

30 H. Notwithstanding any other provision of this
31 article, any insurer to which this article applies and
32 whose gross premium receipts are less than
33 \$450,000.00, according to its annual statement for the
34 preceding year ending December 31, shall be required
35 to pay only one-half the amount of the fees required to
36 be paid under this article and as set by the
37 commissioner.

38 [Sections 202.005-202.050 reserved for expansion]

39 SUBCHAPTER B. SPECIFIC MAXIMUM FEES

40 Revised Law

41 Sec. 202.051. GENERAL FEES IMPOSED ON INSURERS. The
42 department shall impose and receive fees for the use of the state
43 from each authorized insurer writing insurance in this state. The

1 amount of the fees may not exceed:

2 (1) for filing an amendment to a certificate of
3 authority if the charter is not amended \$100;

4 (2) for affixing the official seal and certifying to
5 the seal \$20;

6 (3) for reservation of name \$200;

7 (4) for renewal of reservation of name \$50;

8 (5) for filing an application for admission of a
9 foreign or alien insurer \$4,000;

10 (6) for filing an original charter of an insurer,
11 including issuance of a certificate of authority \$3,000;

12 (7) for filing an amendment to a charter if a hearing
13 is held \$500;

14 (8) for filing an amendment to a charter if a hearing
15 is not held \$250;

16 (9) for filing a designation of an attorney for
17 service of process or an amendment of a designation \$50;

18 (10) for filing a copy of a total reinsurance
19 agreement \$1,500;

20 (11) for filing a copy of a partial reinsurance
21 agreement \$300;

22 (12) for accepting a security deposit \$200;

23 (13) for substitution or amendment of a security
24 deposit \$100;

25 (14) for certification of a statutory deposit . . \$20;

26 (15) for filing a notice of intent to locate books and
27 records outside this state under Chapter 803 \$300;

28 (16) for filing a statement under Subchapters D
29 and E, Chapter 823, for the first \$9.9 million of the
30 consideration \$1,000;

31 (17) for filing a statement under Subchapters D and E,
32 Chapter 823, if the amount of the consideration exceeds \$9.9
33 million an additional \$500 for each additional
34 \$10 million of the consideration that exceeds \$9.9 million, but not

1 more than a total amount of \$10,000 under this subdivision and
2 Subdivision (16);

3 (18) for filing a registration statement under
4 Subchapter B, Chapter 823 \$300;

5 (19) for filing for review under Subchapter C, Chapter
6 823, or Subchapter L, Chapter 884 \$500;

7 (20) for filing a direct reinsurance agreement under
8 Subchapter K, Chapter 884 \$300;

9 (21) for filing for approval of a merger under Chapter
10 824 \$1,500;

11 (22) for filing for approval of reinsurance under
12 Chapter 828 \$1,500;

13 (23) for filing restated articles of incorporation for
14 a domestic, foreign, or alien insurer \$500;

15 (24) for filing a joint control agreement . . . \$100;

16 (25) for filing a substitution or amendment to a joint
17 control agreement \$40; and

18 (26) for filing a change of attorney in fact . . \$500.

19 (V.T.I.C. Art. 4.07, Sec. A (part).)

20 Source Law

21 Art. 4.07. A. With respect to all authorized
22 insurers writing classes of insurance in this State,
23 the Texas Department of Insurance shall charge and
24 receive for the use of the State fees in an amount
25 . . . not to exceed the following:

26 (1) For filing an amendment to a
27 certificate of authority if the charter is not
28 amended, \$100.00.

29 (2) For affixing the official seal and
30 certifying to the seal, \$20.00.

31 (3) For reservation of name, \$200.00.

32 (4) For renewal of reservation of name,
33 \$50.00.

34 (5) For filing an application for
35 admission of a foreign or alien company, \$4,000.00.

36 (6) For filing an original charter of a
37 company including issuance of a certificate of
38 authority, \$3,000.00.

39 (7) For filing an amendment to a charter if
40 a hearing is held, \$500.00.

41 (8) For filing an amendment to a charter if
42 a hearing is not held, \$250.00.

43 (9) For filing a designation of an
44 attorney for service of process or amendment of the
45 designation, \$50.00.

46 (10) For filing a copy of a total
47 reinsurance agreement, \$1,500.00.

1 (11) For filing a copy of a partial
2 reinsurance agreement, \$300.00.

3 (12) For accepting a security deposit,
4 \$200.00.

5 (13) For substitution or amendment of a
6 security deposit, \$100.00.

7 (14) For certification of statutory
8 deposits, \$20.00.

9 (15) For filing a notice of intent to
10 relocate books and records pursuant to Article 1.28 of
11 this code, \$300.00.

12 (16) For filing a statement pursuant to
13 Section 5, Article 21.49-1 of this code, for the first
14 \$9,900,000.00 of the purchase price or consideration,
15 \$1,000.00.

16 (17) For filing a statement pursuant to
17 Section 5, Article 21.49-1 of this code, if the
18 purchase price or consideration exceeds
19 \$9,900,000.00, an additional \$500.00 for each
20 \$10,000,000.00 exceeding \$9,900,000.00, but not more
21 than \$10,000.00 total fee under this subdivision and
22 the preceding subdivision.

23 (18) For filing a registration statement
24 pursuant to Section 3, Article 21.49-1 of this code,
25 \$300.00.

26 (19) For filing for review pursuant to
27 Section 4, Article 21.49-1 or Article 22.15 of this
28 code, \$500.00.

29 (20) For filing of a direct reinsurance
30 agreement pursuant to Article 22.19 of this code,
31 \$300.00.

32 (21) For filing for approval of a merger
33 pursuant to Article 21.25 of this code, \$1,500.00.

34 (22) For filing for approval of
35 reinsurance pursuant to Article 21.26 of this code,
36 \$1,500.00.

37 (23) For filing of restated articles of
38 incorporation for domestic, foreign or alien
39 companies, \$500.00.

40 (24) For filing a joint control agreement,
41 \$100.00.

42 (25) For filing a substitution or
43 amendment to a joint control agreement, \$40.00.

44 (26) For filing a change of attorney in
45 fact, \$500.00.

46 Revisor's Note

47 Sections A(16) and (17), V.T.I.C. Article 4.07,
48 refer to the "purchase price or consideration" of a
49 transaction subject to Section 5, V.T.I.C. Article
50 21.49-1, revised as Subchapters D and E of Chapter 823
51 of this code. The revised law omits "purchase price"
52 because, in context, "purchase price" is included
53 within the meaning of "consideration." Also,
54 "consideration" is the term used in Chapter 823.

55 Revised Law

56 Sec. 202.052. FEES IMPOSED ON CERTAIN INSURERS. (a) The

1 department shall impose and the comptroller shall collect fees for
2 the use of the state from each authorized insurer writing a class of
3 insurance that may be written by an insurer operating under Chapter
4 841. The amount of the fees may not exceed:

5 (1) for valuing life insurance policies, and for each
6 \$1 million of insurance or fraction thereof \$10; and

7 (2) for filing the annual statement \$500.

8 (b) Subtitles A and B, Title 2, Tax Code, apply to a fee
9 collected under this section. (V.T.I.C. Art. 4.07, Sec. B.)

10 Source Law

11 B. For an authorized insurer writing a class of
12 insurance in this state that is subject to Chapter 3 of
13 this code, the Texas Department of Insurance shall
14 charge and the comptroller shall collect for the use of
15 the state fees in an amount to be determined by the
16 commissioner not to exceed the following:

17 (1) For valuing policies of life
18 insurance, and for each one million dollars of
19 insurance or fraction thereof, \$10.00.

20 (2) For filing the annual statement,
21 \$500.00.

22 The provisions of Subtitles A and B, Title 2, Tax
23 Code, and their subsequent amendments, apply to fees
24 collected by the comptroller under this section.

25 Revisor's Note

26 (1) Section B, V.T.I.C. Article 4.07, refers to
27 "an authorized insurer writing a class of insurance in
28 this state that is subject to Chapter 3 of this code."
29 The revised law substitutes a reference to "an
30 authorized insurer writing a class of insurance that
31 may be written by an insurer operating under Chapter
32 841." V.T.I.C. Chapter 3 generally relates to the
33 organization of life, health, and accident insurers
34 and the classes of insurance that are written by those
35 insurers. It is clear that the purpose of the reference
36 in Section B, V.T.I.C. Article 4.07, is to refer to
37 authorized insurers writing these classes of
38 insurance. The portion of V.T.I.C. Chapter 3 that
39 relates to the organization of those types of insurers
40 in this state is revised as Chapter 841 of this code.

1 It is therefore appropriate to refer to a class of
2 insurance that may be written by an insurer operating
3 under Chapter 841.

4 (2) Section B, V.T.I.C. Article 4.07, refers to
5 "Subtitles A and B, Title 2, Tax Code, and their
6 subsequent amendments." The revised law omits the
7 reference to "and their subsequent amendments" because
8 under Section 311.027, Government Code (Code
9 Construction Act), unless expressly provided
10 otherwise, a reference to a statute applies to all
11 reenactments, revisions, or amendments of the statute.

12 [Sections 202.053-202.100 reserved for expansion]

13 SUBCHAPTER C. DEPOSIT AND USE OF FEES

14 Revised Law

15 Sec. 202.101. DEPOSIT AND USE OF FEES GENERALLY. Amounts
16 collected under Section 202.051:

17 (1) shall be deposited to the credit of the Texas
18 Department of Insurance operating account; and

19 (2) may be appropriated only for the use and benefit of
20 the department as provided by the General Appropriations Act to pay
21 salaries and other expenses arising from and in connection with
22 investigations of violations of the insurance laws of this state
23 and the examination or licensing of insurers. (V.T.I.C. Art. 4.07,
24 Sec. F.)

25 Source Law

26 F. All fees collected by virtue of Section A of
27 this Article shall be deposited in the State Treasury
28 to the credit of the Texas Department of Insurance
29 operating fund and appropriated to the use and benefit
30 of the department to be used in the payment of salaries
31 and other expenses arising out of and in connection
32 with the examination of insurance companies and/or the
33 licensing of insurance companies and investigations of
34 violations of the insurance laws of this State in such
35 manner as provided in the general appropriation bill.

36 Revisor's Note

37 Section F, V.T.I.C. Article 4.07, refers to "the
38 Texas Department of Insurance operating fund." Under

the authority of Chapter 4, Acts of the 72nd Legislature, 1st Called Session, 1991, the Texas Department of Insurance operating fund was converted to an account in the general revenue fund. The revised law is drafted accordingly.

Revised Law

Sec. 202.102. DEPOSIT AND USE OF CERTAIN OTHER FEES.

Amounts collected by the comptroller under Section 202.052:

(1) shall be deposited to the credit of the general revenue fund; and

(2) are available for appropriation to the department as provided by the General Appropriations Act to pay salaries and other expenses arising from investigations of violations of the insurance laws of this state and the examination or licensing of insurers. (V.T.I.C. Art. 4.07, Sec. G.)

Source Law

G. All fees collected by the comptroller under Section B of this Article shall be deposited in the general revenue fund. Those amounts are available for appropriation to the Texas Department of Insurance for its use in paying salaries and other expenses arising out of the examination or licensing of insurance companies and investigations of the violations of this code or other insurance laws of this State as provided by the General Appropriations Act.

CHAPTER 203. GENERAL PROVISIONS RELATING TO TAXES

Sec. 203.001. LIMITATION ON CERTAIN ADDITIONAL TAXES. 31

Sec. 203.002. TAX PAYMENT REQUIRED FOR CERTAIN CERTIFICATES;
UNREPORTED GROSS PREMIUM RECEIPTS 33

CHAPTER 203. GENERAL PROVISIONS RELATING TO TAXES

Revised Law

Sec. 203.001. LIMITATION ON CERTAIN ADDITIONAL TAXES. (a)

This section applies to:

(1) an insurer authorized to engage in the business of insurance in this state other than an eligible surplus lines insurer; and

(2) a health maintenance organization authorized to engage in the business of a health maintenance organization in this

1 state.

2 (b) Except as otherwise provided by this code or the Labor
3 Code, an insurer or health maintenance organization subject to a
4 tax imposed by Chapter 4, 221, 222, 224, or 257 may not be required
5 to pay any additional tax imposed by this state or a county or
6 municipality in proportion to the insurer's or health maintenance
7 organization's gross premium receipts.

8 (c) Subsection (b) does not:

9 (1) limit the applicability of other taxes, fees, and
10 assessments imposed by this code; or

11 (2) prohibit the imposition and collection of state,
12 county, and municipal taxes on the property of insurers or health
13 maintenance organizations or state, county, and municipal taxes
14 imposed by other laws of this state, unless a specific exemption for
15 insurers or health maintenance organizations is provided in those
16 laws. (V.T.I.C. Art. 4.06.)

17 Source Law

18 Art. 4.06. (a) This chapter applies to
19 insurance organizations authorized to do insurance
20 business in this state other than eligible surplus
21 lines insurers.

22 (b) An insurance organization subject to a tax
23 levied by this chapter may not be required to pay any
24 additional tax in proportion to its gross premium
25 receipts levied by this state or any county or
26 municipality except as otherwise provided by this code
27 or the Labor Code. This exemption may not be construed
28 to limit the applicability of other taxes, fees, and
29 assessments that are imposed by other chapters of this
30 code. This exemption may not be construed to prohibit
31 the levy and collection of state, county, and
32 municipal taxes on the real and personal property of
33 insurance organizations, or the levy and collection of
34 state, county, and municipal taxes that are imposed by
35 other laws of this state, unless a specific exemption
36 for insurance organizations is provided in those laws.

37 Revisor's Note

38 (1) V.T.I.C. Article 4.06 states that the
39 "chapter," meaning V.T.I.C. Chapter 4, applies to
40 insurance organizations authorized to do insurance
41 business in this state other than eligible surplus
42 lines insurers. The revised law substitutes "section"
43 for "chapter" because it is clear from the context of

1 Article 4.06 and from other provisions of Chapter 4
2 that the applicability language was intended to affect
3 the applicability of Article 4.06 only and does not
4 affect the applicability of the other provisions of
5 Chapter 4.

6 (2) Section (a), V.T.I.C. Article 4.06, refers
7 to "insurance organizations authorized to do insurance
8 business in this state." Section (b) of the article
9 refers to "an insurance organization subject to a tax
10 levied by this chapter," meaning V.T.I.C. Chapter 4.
11 Many types of organizations pay taxes under Chapter 4,
12 including insurers and health maintenance
13 organizations. Although health maintenance
14 organizations are not "insurance" organizations and do
15 not engage in the business of "insurance," it is clear
16 that Article 4.06 is intended to apply to all
17 organizations subject to taxation under Chapter 4.
18 (Eligible surplus lines insurers do not pay a tax under
19 V.T.I.C. Chapter 4.) Therefore, the revised law
20 substitutes "insurer" and "health maintenance
21 organization" for "insurance organization" because in
22 context the terms are synonymous and the former terms
23 are more commonly used in this code.

24 (3) Section (b), V.T.I.C. Article 4.06, refers
25 to the imposition of taxes on "real and personal
26 property." The revised law omits the reference to
27 "real and personal" because under Section 311.005(4),
28 Government Code (Code Construction Act), "property"
29 includes both real and personal property. That
30 definition applies to the revised law.

31 Revised Law

32 Sec. 203.002. TAX PAYMENT REQUIRED FOR CERTAIN
33 CERTIFICATES; UNREPORTED GROSS PREMIUM RECEIPTS. (a) A life
34 insurance company may not receive a certificate of authority to

1 engage in the business of insurance in this state until all taxes
2 imposed under this code or another insurance law of this state are
3 paid.

4 (b) If the commissioner determines by examining a company or
5 by other means that the company's gross premium receipts in a year
6 exceed the amount reported by the company for that year, the
7 commissioner shall report that determination to the comptroller.
8 The comptroller shall institute a collection action as the
9 comptroller considers appropriate to collect taxes due on
10 unreported gross premium receipts. (V.T.I.C. Art. 4.05 (part).)

11 Source Law

12 Art. 4.05. No life insurance company shall
13 receive a certificate of authority to do business in
14 this State until all taxes imposed under this code or
15 another insurance law of this state are paid. If, upon
16 the examination of any company, or in any other manner,
17 the commissioner shall be informed that the gross
18 premium receipts of any year exceed in amount those
19 shown by the report thereof, theretofore made as above
20 provided, the commissioner shall report this fact to
21 the comptroller. The comptroller shall institute a
22 collection action, as the comptroller considers
23 appropriate in accordance with Subtitles A and B,
24 Title 2, Tax Code, and their subsequent amendments, to
25 collect taxes due on unreported gross premium
26 receipts. . . .

27 Revisor's Note

28 (1) V.T.I.C. Article 4.05 refers to gross
29 receipts of a company as shown by the report
30 "theretofore made as above provided." The revised law
31 omits the quoted language as unnecessary because
32 Chapter 685, Acts of the 73rd Legislature, Regular
33 Session, 1993, eliminated the reference to a report.

34 (2) V.T.I.C. Article 4.05 states that the
35 comptroller shall institute a collection action "in
36 accordance with Subtitles A and B, Title 2, Tax Code,
37 and their subsequent amendments." The revised law
38 omits the quoted language as unnecessary because
39 V.T.I.C. Article 1.04D, revised in relevant part as
40 Section 201.051 of this code, provides that, with
41 respect to insurance taxes, the comptroller has the

enforcement powers provided by those provisions of the Tax Code.

(3) V.T.I.C. Article 4.05 requires that taxes be deposited to the credit of the general revenue fund. The revised law omits the provision as unnecessary because Section 404.094, Government Code (State Funds Reform Act), requires that all taxes collected or received by a state agency be deposited to the credit of the general revenue fund. The omitted law reads:

Art. 4.05. . . . The comptroller shall deposit taxes collected under this article to the credit of the general revenue fund.

[Chapters 204-220 reserved for expansion]

SUBTITLE B. INSURANCE PREMIUM TAXES

CHAPTER 221. PROPERTY AND CASUALTY INSURANCE PREMIUM TAX

Sec. 221.001. APPLICABILITY OF CHAPTER. 35

Sec. 221.002. TAX IMPOSED; RATE 37

Sec. 221.003. TAX DUE DATES 41

Sec. 221.004. TAX REPORT 42

Sec. 221.005. CHANGE IN DUE DATES 43

Sec. 221.006. CREDIT FOR FEES PAID 43

Sec. 221.007. FAILURE TO PAY TAXES 43

CHAPTER 221. PROPERTY AND CASUALTY INSURANCE PREMIUM TAX

Revised Law

Sec. 221.001. APPLICABILITY OF CHAPTER. (a) This chapter applies to an insurer, organization, or concern that receives gross premiums subject to taxation under Section 221.002, including a reciprocal or interinsurance exchange that elects to be subject to taxation under this chapter in accordance with Section 224.003 and a Lloyd's plan.

(b) This chapter does not apply to:

- (1) a fraternal benefit society, including a fraternal benefit society operating under Chapter 885;
- (2) a group hospital service corporation operating

1 under Chapter 842;

2 (3) a stipulated premium company operating under
3 Chapter 884;

4 (4) a mutual assessment association, company, or
5 corporation regulated under Chapter 887; or

6 (5) a purely cooperative or mutual fire insurance
7 company carried on by its members solely for the protection of their
8 own property and not for profit, except as provided by Section
9 221.002(b)(13). (V.T.I.C. Art. 4.10, Secs. 1 (part), 3, 4(a).)

10 Source Law

11 Art. 4.10

12 Sec. 1. Every insurance carrier, including
13 Lloyd's and reciprocal exchanges and any other
14 organization or concern receiving gross premiums from
15

16 Sec. 3. This article shall not apply to
17 fraternal benefit associations or societies in this
18 state, to nonprofit group hospital service plans, to
19 stipulated premium companies nor to mutual assessment
20 associations, companies, or corporations regulated by
21 Chapter 14, Insurance Code, as amended.

22 Sec. 4. (a) Except as provided by Subsection
23 (b) of this section, this article shall not apply to
24 purely cooperative or mutual fire insurance companies
25 carried on by the members thereof solely for the
26 protection of their own property and not for profit.

27 Revisor's Note

28 (1) Section 1, V.T.I.C. Article 4.10, refers to
29 reciprocal exchanges. The revised law substitutes
30 "reciprocal or interinsurance exchange" because that
31 is the term normally used to describe such an insurer,
32 and Section 1, V.T.I.C. Article 4.11B, revised in this
33 code as Section 224.001, provides that "reciprocal
34 exchange" means a reciprocal or interinsurance
35 exchange. In addition, the revised law adds a
36 reference to a reciprocal or interinsurance exchange
37 "that elects to be subject to taxation under this
38 chapter" because under Section 2, V.T.I.C. Article
39 4.11C, revised in this code as Section 224.003, a
40 reciprocal or interinsurance exchange may elect to be
41 taxed under either Article 4.10 or Article 4.11B.

1 (2) Section 3, V.T.I.C. Article 4.10, refers to
2 "fraternal benefit associations or societies" and
3 "nonprofit group hospital service plans." Those
4 entities are more commonly known as fraternal benefit
5 societies and group hospital service corporations,
6 respectively, and the revised law is drafted
7 accordingly. In addition, for clarity and
8 consistency, the revised law adds for those entities
9 references to the chapters of this code that provide
10 the authority for the operation of each entity.

11 (3) Section 3, V.T.I.C. Article 4.10, refers to
12 "mutual assessment associations, companies, or
13 corporations regulated by Chapter 14, Insurance Code,
14 as amended." The relevant portions of Chapter 14,
15 relating to general provisions governing those
16 associations, companies, or corporations, are revised
17 in Chapter 887, and the revised law is drafted
18 accordingly. In addition, the revised law omits the
19 reference to "as amended" because under Section
20 311.027, Government Code (Code Construction Act),
21 unless expressly provided otherwise, a reference to a
22 statute applies to all reenactments, revisions, or
23 amendments of the statute.

24 Revised Law

25 Sec. 221.002. TAX IMPOSED; RATE. (a) An annual tax is
26 imposed on each insurer that receives gross premiums subject to
27 taxation under this section. The rate of the tax is 1.6 percent of
28 the insurer's taxable premium receipts for a calendar year.

29 (b) Except as provided by Subsection (c), in determining an
30 insurer's taxable premium receipts, the insurer shall include the
31 total gross amounts of premiums written by the insurer in a calendar
32 year from any kind of insurance written on property or risks located
33 in this state, including:

34 (1) fire insurance;

1 Lloyd's and reciprocal exchanges and any other
2 organization or concern receiving gross premiums from]
3 the business of fire, marine, marine inland, accident,
4 credit, livestock, fidelity, guaranty, surety,
5 casualty, workers' compensation, employers' liability,
6 or any other kind or character of insurance, except
7 title insurance and except as provided in Sections 2,
8 3, and 4 of this article, shall pay to the comptroller
9 a tax upon such gross premium receipts as provided in
10 this article. Any such insurance carrier doing other
11 kinds of insurance business shall pay the tax levied
12 upon its gross premiums received from such other kinds
13 of business as provided in Articles 4.03 and 4.11 of
14 this code.

15 Sec. 2. This article shall not apply to premium
16 receipts received from the business of life insurance,
17 personal accident insurance, life and accident
18 insurance, or health and accident insurance for
19 profit, written by life insurance companies, life and
20 accident insurance companies, health and accident
21 insurance companies, or for mutual benefit or
22 protection of this state.

23 [Sec. 4]

24 (b) This article applies to crop insurance
25 premiums only written by a farm mutual insurance
26 company on or after January 1, 1994.

27 Sec. 5. Gross premium receipts referred to
28 herein are the total gross amount of premiums actually
29 written during the taxable year on each and every kind
30 of insurance or risk written upon property or risks
31 located in the State of Texas (except premium receipts
32 under Section 2), except premiums actually written by
33 other licensed companies for reinsurance, less return
34 premiums and dividends paid policyholders with no
35 deduction for premiums paid for reinsurance.

36 Sec. 6. (a) . . . each taxable year ending the
37 31st day of December

38 Sec. 10. There is imposed on each insurance
39 carrier subject to this article an annual tax equal to
40 1.6 percent of its premium receipts.

41 Revisor's Note

42 (1) Section 1, V.T.I.C. Article 4.10, refers to
43 "marine" and "marine inland" insurance. The revised
44 law substitutes "ocean marine" and "inland marine" for
45 "marine" and "marine inland" respectively, because, in
46 context, those are the proper names for those types of
47 insurance.

48 (2) Section 1, V.T.I.C. Article 4.10, requires
49 insurers to pay a premium tax "to the comptroller."
50 The revised law omits the reference to the comptroller
51 as unnecessary. Section (a), V.T.I.C. Article 1.04D,
52 revised in this code in Section 201.051(a), requires
53 the comptroller to collect taxes imposed under this

1 code.

2 (3) Section 1, V.T.I.C. Article 4.10, requires
3 an insurer "doing other kinds of insurance business"
4 to pay premium taxes on those types of business as
5 provided by "Articles 4.03 and 4.11 of this code,"
6 implying that a type of insurance not taxed under
7 V.T.I.C. Article 4.10 is taxed under V.T.I.C. Articles
8 4.03 and 4.11. The revised law omits the provision as
9 obsolete, unnecessary, and inaccurate. V.T.I.C.
10 Article 4.03, as enacted in 1951, states that Chapter 4
11 of the Insurance Code does not affect the obligation of
12 an insurance organization to make investments in Texas
13 securities as required by Article 3.33. V.T.I.C.
14 Article 3.33 was repealed by Chapter 332, Acts of the
15 58th Legislature, Regular Session, 1963. V.T.I.C.
16 Article 4.11, revised in this code as Chapter 222, by
17 its own terms imposes a premium tax on life, health,
18 and accident insurance. Other provisions of this code
19 impose a premium tax on "other kinds of insurance."
20 For example, V.T.I.C. Article 1.14-2, revised in this
21 code as Chapter 225, imposes a premium tax on surplus
22 lines insurance.

23 (4) Sections 1, 2, and 5, V.T.I.C. Article 4.10,
24 prescribe the types of premium receipts that are not
25 included in determining premium tax liability. The
26 revised law adds a reference to "premiums excluded by
27 another law of this state" for clarity because other
28 law, such as Section 6, V.T.I.C. Article 5.35-3,
29 provides that certain gross premiums are not subject
30 to taxation under Article 4.10.

31 (5) Section 4(b), V.T.I.C. Article 4.10, refers
32 to premiums written by a farm mutual insurance company
33 "on or after January 1, 1994." The revised law omits
34 the reference to the date as executed.

(6) Section 5, V.T.I.C. Article 4.10, refers to a "taxable year" and Section 6, V.T.I.C. Article 4.10, refers to a "taxable year ending the 31st day of December." Throughout this chapter, the revised law substitutes "calendar year" for "taxable year" because the terms are synonymous and the former is more accurate.

(7) Section 5, V.T.I.C. Article 4.10, refers to "licensed" companies. The revised law substitutes "authorized" for "licensed" for consistency with other terminology used in this code.

Revised Law

Sec. 221.003. TAX DUE DATES. (a) The total tax imposed by this chapter is due and payable not later than March 1 after the end of the calendar year for which the tax is due.

(b) An insurer that had a net tax liability for the previous calendar year of more than \$1,000 shall make semiannual prepayments of tax on March 1 and August 1. The tax paid on each date must be equal to 50 percent of the total amount of tax the insurer paid under this chapter for the previous calendar year. If the insurer did not pay a tax under this chapter during the previous calendar year, the tax paid on each date must be equal to the tax that would be owed on the aggregate of the gross premiums for the two previous calendar quarters.

(c) The comptroller may refund any overpayment of taxes that results from the semiannual prepayment system prescribed by this section. (V.T.I.C. Art. 4.10, Secs. 6(a) (part), (b).)

Source Law

(a) . . . for each taxable year ending the 31st day of December preceding . . . the total amount of the tax due under this article shall be paid on or before the 1st day of March of each year.

(b) A semiannual prepayment of premium tax must be made on March 1st and August 1st by all insurers with net tax liability for the previous calendar year in excess of \$1,000. The tax paid on each date must equal one-half of the total premium tax paid for the previous calendar year. Should no premium tax have been paid during the previous calendar year, the

1 semiannual payment shall equal the tax which would be
2 owed on the aggregate of the gross premium receipts for
3 the two previous calendar quarters at the minimum tax
4 rate specified by law. The comptroller is authorized
5 to refund any overpayment of premium taxes that
6 results from the semiannual prepayment system herein
7 established.

8 Revisor's Note

9 Section 6(b), V.T.I.C. Article 4.10, requires
10 certain prepayments to be made "at the minimum tax rate
11 specified by law." Before 1999, the rate of the tax
12 imposed by V.T.I.C. Article 4.10 ranged from 1.6
13 percent to 3.5 percent depending on the amount of Texas
14 investments made by an insurer. The variable rates
15 were repealed by Chapter 852, Acts of the 76th
16 Legislature, Regular Session, 1999. Therefore, the
17 revised law omits the reference to the quoted
18 language.

19 Revised Law

20 Sec. 221.004. TAX REPORT. (a) An insurer liable for the
21 tax imposed by this chapter must file annually with the comptroller
22 a tax report on a form prescribed by the comptroller.

23 (b) The tax report is due on the date the tax is due under
24 Section 221.003(a). (V.T.I.C. Art. 4.10, Secs. 6(a) (part), 11.)

25 Source Law

26 Sec. 6. (a) A premium tax return for each
27 taxable year ending the 31st day of December preceding
28 shall be filed and . . . on or before the 1st day of
29 March of each year.

30 Sec. 11. Each insurance carrier which is liable
31 under this article for tax on premiums shall file a tax
32 return annually on forms prescribed by the
33 comptroller.

34 Revisor's Note

35 Sections 6(a) and 11, V.T.I.C. Article 4.10,
36 refer to a "tax return." The revised law substitutes
37 "tax report" for "tax return" because, in the context
38 of tax law, the terms are synonymous and the former is
39 more commonly used.

Revised Law

Sec. 221.005. CHANGE IN DUE DATES. (a) The comptroller by rule may change the dates for reporting and paying taxes under this chapter to improve operating efficiencies within the agency.

(b) A change by the comptroller in a reporting or payment date must retain the system of semiannual prepayments prescribed by Section 221.003. (V.T.I.C. Art. 4.10, Sec. 6(c).)

Source Law

(c) The comptroller by rule may change the dates for reporting and payment of taxes to improve operating efficiencies within the agency, so long as a system of semiannual prepayment of taxes imposed by this article is maintained.

Revised Law

Sec. 221.006. CREDIT FOR FEES PAID. (a) Except as provided by Section 803.007, an insurer is entitled to a credit on the amount of tax due under this chapter for all examination and evaluation fees paid to or for the use of this state during the calendar year for which the tax is due.

(b) The credit provided by this section is in addition to any other credit authorized by statute. (V.T.I.C. Art. 4.10, Sec. 13.)

Source Law

Sec. 13. The amount of all examination and evaluation fees paid in each taxable year to or for the use of the State of Texas by an insurance carrier shall be allowed as a credit on the amount of premium taxes due under this article except as provided by Article 1.28 of this code. Any credit allowed by the provisions of this section is in addition to any other credits allowable by statute.

Revised Law

Sec. 221.007. FAILURE TO PAY TAXES. An insurer that fails to pay all taxes imposed by this chapter is subject to Section 203.002. (V.T.I.C. Art. 4.10, Sec. 15.)

Source Law

Sec. 15. Any insurance carrier failing to pay all taxes imposed by this article shall, in addition, be subject to the provisions of Article 4.05, Insurance Code.

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Revisor's Note

Section 15, V.T.I.C. Article 4.10, states that an insurer that fails to pay taxes shall, "in addition," be subject to V.T.I.C. Article 4.05, revised in this code in Section 203.002. The revised law omits the quoted language, which relates to the cumulative effect of the section. An accepted principle of statutory construction requires a statute to be given cumulative effect with other statutes unless it provides otherwise or unless the statutes are in conflict. The general principle applies to this revision.

CHAPTER 222. LIFE, HEALTH, AND ACCIDENT INSURANCE PREMIUM TAX

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CHAPTER 222. LIFE, HEALTH, AND ACCIDENT INSURANCE PREMIUM TAX

Revised Law

Sec. 222.001. APPLICABILITY OF CHAPTER. (a) This chapter applies to:

(1) an insurer that receives gross premiums subject to taxation under Section 222.002, including:

(A) a life, health, or accident insurance company operating under Chapter 841 or 982;

(B) a group hospital service corporation operating under Chapter 842;

(C) a general casualty company operating under Chapter 861;

(D) a statewide mutual assessment company

operating under Chapter 881;

(E) a mutual life insurance company operating under Chapter 882;

(F) a mutual insurance company operating under Chapter 883;

(G) a stipulated premium company operating under Chapter 884;

(H) a Lloyd's plan operating under Chapter 941;

(I) a reciprocal or interinsurance exchange operating under Chapter 942; and

(J) a Mexican casualty insurance company operating under Chapter 984; and

(2) a health maintenance organization operating under Chapter 843 that receives gross revenues subject to taxation under Section 222.002.

(b) This chapter does not apply to:

(1) a fraternal benefit society, including a fraternal benefit society operating under Chapter 885;

(2) a local mutual aid association operating under Chapter 886; or

(3) a society that limits its membership to one occupation. (V.T.I.C. Art. 4.11, Secs. 1 (part), 2(a).)

Source Law

Art. 4.11

Sec. 1. Every insurance carrier receiving premiums from the business

Sec. 2. The following definitions shall apply to this article:

(a) "Carrier" means any insurer or group hospital service plan transacting any such insurance business in this state including companies operating under the provisions of Chapters 3, 8, 11, 13, 15, 18, 19, 20, 20A, and 22 of the Insurance Code but excluding local mutual aid associations, fraternal benefit societies or associations, and societies that limit their membership to one occupation.

Revisor's Note

(1) Section 1, V.T.I.C. Article 4.11, refers to an "insurance carrier receiving premiums." Section 2(a), V.T.I.C. Article 4.11, defines "carrier" to mean

1 any "insurer or group hospital service plan
2 transacting any such insurance business." The revised
3 law substitutes "insurer" and "health maintenance
4 organization" for "carrier" because the definition of
5 "carrier" includes entities, such as health
6 maintenance organizations, that are not insurers. In
7 addition, health maintenance organizations do not
8 receive "premiums," but instead receive "revenues" for
9 the issuance of health maintenance certificates or
10 contracts. Therefore, the revised law adds a
11 reference to "revenues." Finally, the revised law
12 substitutes "gross premiums" for "premiums" and "gross
13 revenues" for "revenues" because the tax is based on
14 gross premiums and gross revenues. See Sections 5F,
15 5G, and 5H, V.T.I.C. Article 4.11, revised in this
16 chapter as Section 222.003. The substitution and
17 addition of those terms, as well as related changes
18 necessary to ensure consistency in terminology, are
19 made throughout this chapter.

20 (2) Section 2(a), V.T.I.C. Article 4.11, refers
21 to companies operating under "Chapters 3, 8, 11, 13,
22 15, 18, 19, 20, 20A, and 22 of the Insurance Code." For
23 clarity and consistency, the revised law provides the
24 names of the types of companies to which those chapters
25 apply.

26 (3) Section 2(a), V.T.I.C. Article 4.11, refers
27 to Chapter 3 of the Insurance Code. The relevant
28 portions of Chapter 3, relating to life, health, or
29 accident insurance companies, are revised in Chapters
30 841 and 982 of this code. The revised law is drafted
31 accordingly.

32 (4) Section 2(a), V.T.I.C. Article 4.11, refers
33 to Chapter 8 of the Insurance Code. The relevant
34 portions of Chapter 8, relating to general casualty

1 companies and Mexican casualty insurance companies,
2 are revised in Chapters 861 and 984 of this code. The
3 revised law is drafted accordingly.

4 (5) Section 2(a), V.T.I.C. Article 4.11, refers
5 to "local mutual aid associations" and "fraternal
6 benefit societies or associations." For clarity and
7 consistency, the revised law adds for those entities
8 references to the chapters of this code that provide
9 the authority for the operation of each entity.

10 (6) Section (a), V.T.I.C. Article 20A.33,
11 states that a health maintenance organization is an
12 "insurance organization" within the terms of V.T.I.C.
13 Article 4.11. The revised law omits this provision
14 because the term "insurance organization" is not used
15 in Article 4.11. In addition, Section 2(a), V.T.I.C.
16 Article 4.11, revised in this section, makes the
17 article applicable to a company operating under
18 Chapter 20A (health maintenance organizations) and
19 therefore is sufficient to include health maintenance
20 organizations. The omitted law reads:

21 (a) . . . For the purposes of
22 computing and collecting the tax herein
23 provided, a health maintenance organization
24 is an "insurance organization" within the
25 terms of Article 4.11, Insurance Code, as
26 amended.

27 Revised Law

28 Sec. 222.002. TAX IMPOSED. (a) An annual tax is imposed
29 on:

30 (1) each insurer that receives gross premiums subject
31 to taxation under this section; and

32 (2) each health maintenance organization that
33 receives gross revenues from the sale of health maintenance
34 certificates or contracts.

35 (b) Except as otherwise provided by this section, in
36 determining an insurer's taxable gross premiums or a health

1 maintenance organization's taxable gross revenues, the insurer or
2 health maintenance organization shall include the total gross
3 amounts of premiums, membership fees, assessments, dues, revenues,
4 and other considerations received by the insurer or health
5 maintenance organization in a calendar year from any kind of health
6 maintenance organization certificate or contract or insurance
7 policy or contract covering a person located in this state and
8 arising from the business of a health maintenance organization or
9 the business of life insurance, accident insurance, health
10 insurance, life and accident insurance, life and health insurance,
11 health and accident insurance, life, health, and accident
12 insurance, including variable life insurance, credit life
13 insurance, and credit accident and health insurance for profit or
14 otherwise or for mutual benefit or protection.

15 (c) The following are not included in determining an
16 insurer's taxable gross premiums or a health maintenance
17 organization's taxable gross revenues:

- 18 (1) returned premiums or revenues;
- 19 (2) dividends applied to purchase paid-up additions to
20 insurance or to shorten the endowment or premium payment period;
- 21 (3) premiums received from an insurer for reinsurance;
- 22 (4) premiums or revenues received from the treasury of
23 this state or the United States for insurance or benefits
24 contracted for by this state or the federal government:

25 (A) in accordance with or in furtherance of Title
26 2, Human Resources Code, or the Social Security Act (42 U.S.C.
27 Section 301 et seq.); or

28 (B) to provide welfare benefits to designated
29 welfare recipients;

- 30 (5) premiums or revenues paid on group health,
31 accident, and life policies or contracts in which the group covered
32 by the policy or contract consists of a single nonprofit trust
33 established to provide coverage primarily for employees of:

34 (A) a municipality, county, or hospital district

1 in this state; or

2 (B) a county or municipal hospital, without
3 regard to whether the employees are employees of the county or
4 municipality or of an entity operating the hospital on behalf of the
5 county or municipality; or

6 (6) premiums or revenues excluded by another law of
7 this state.

8 (d) For purposes of Subsection (c)(3), a stop-loss or excess
9 loss insurance policy issued to a health maintenance organization
10 is considered reinsurance. In determining an insurer's taxable
11 gross premiums or a health maintenance organization's taxable gross
12 revenues, an insurer or health maintenance organization is not
13 entitled to a deduction for premiums paid for reinsurance.
14 (V.T.I.C. Art. 4.11, Secs. 1, 2(c); Art. 20A.33, Sec. (a) (part);
15 New.)

16 Source Law

17 Art. 4.11

18 Sec. 1. Every insurance carrier receiving
19 premiums from the business of life insurance, accident
20 insurance, health insurance, life and accident
21 insurance, life and health insurance, health and
22 accident insurance, or life, health, and accident
23 insurance, including variable life insurance, credit
24 life insurance, and credit accident and health
25 insurance for profit or otherwise or for mutual
26 benefit or protection, in this state, shall pay to the
27 comptroller a tax upon its gross premiums as provided
28 in this article.

29 [Sec. 2]

30 (c) "Gross premiums" are the total gross
31 amount of all premiums, membership fees, assessments,
32 dues, and any other considerations for such insurance
33 received during the taxable year on each and every kind
34 of such insurance policy or contract covering persons
35 located in the State of Texas and arising from the
36 types of insurance specified in Section 1 of this
37 article, but deducting returned premiums, any
38 dividends applied to purchase paid-up additions to
39 insurance or to shorten the endowment or premium
40 payment period, and excluding those premiums received
41 from insurance carriers for reinsurance and there
42 shall be no deduction for premiums paid for
43 reinsurance. For purposes of this article, a
44 stop-loss or excess loss insurance policy issued to a
45 health maintenance organization, as defined under the
46 Texas Health Maintenance Organization Act (Chapter
47 20A, Vernon's Texas Insurance Code), shall be
48 considered reinsurance. Such gross premiums shall not
49 include premiums received from the Treasury of the
50 State of Texas or from the Treasury of the United

1 States for insurance contracted for by the state or
2 federal government for the purpose of providing
3 welfare benefits to designated welfare recipients or
4 for insurance contracted for by the state or federal
5 government in accordance with or in furtherance of the
6 provisions of Title 2, Human Resources Code, or the
7 Federal Social Security Act. The gross premiums
8 receipts so reported shall not include the amount of
9 premiums paid on group health, accident, and life
10 policies in which the group covered by the policy
11 consists of a single nonprofit trust established to
12 provide coverage primarily for employees of:

13 (1) a municipality, county, or
14 hospital district in this state; or

15 (2) a county or municipal hospital,
16 without regard to whether the employees are employees
17 of the county or municipality or another entity
18 operating the hospital on behalf of the county or
19 municipality.

20 [Art. 20A.33]

21 (a) . . . each such health maintenance
22 organization shall pay . . . for the gross amounts of
23 revenues collected for the issuance of health
24 maintenance certificates or contracts

25 Revisor's Note

26 (1) Section 1, V.T.I.C. Article 4.11, requires
27 insurers and health maintenance organizations to pay a
28 premium tax "to the comptroller." The revised law
29 omits the reference to the comptroller as unnecessary.
30 Section (a), V.T.I.C. Article 1.04D, revised in this
31 code in Section 201.051(a), requires the comptroller
32 to collect taxes imposed under this code.

33 (2) Section 2(c), V.T.I.C. Article 4.11, refers
34 to a "taxable year." The revised law substitutes
35 "calendar year" for "taxable year" because Section
36 2(f), V.T.I.C. Article 4.11, revised in this chapter
37 in Section 222.003, defines "tax year" to mean a
38 calendar year.

39 (3) Section 2(c), V.T.I.C. Article 4.11,
40 prescribes the types of gross premiums that are not
41 included in determining premium tax liability. The
42 revised law adds a reference to "gross revenues" for
43 the reason stated in Revisor's Note (1) to Section
44 222.001. The revised law also adds a reference to
45 "premiums or revenues excluded by another law of this

state" for clarity because other law, such as Section 10(b), V.T.I.C. Article 3.50-2, and Section 4, V.T.I.C. Article 3.71, revised in this code as Sections 1551.012 and 1505.008, respectively, provides that certain premiums and revenues are not subject to premium taxes.

Revised Law

Sec. 222.003. TAX RATES. (a) Except as provided by Subsection (b), the rate of the tax imposed by this chapter on an insurer is 1.75 percent of the insurer's taxable gross premiums received during a calendar year.

(b) The rate of the tax imposed by this chapter on an insurer that receives taxable gross premiums from the business of life insurance is:

(1) 0.875 percent of the first \$450,000 of taxable gross premiums received during a calendar year from the business of life insurance; and

(2) 1.75 percent of the remaining taxable gross premiums received during that calendar year from the business of life insurance.

(c) The rate of the tax imposed by this chapter on a health maintenance organization is:

(1) 0.875 percent of the first \$450,000 of taxable gross revenues received during a calendar year for the issuance of health maintenance certificates or contracts; and

(2) 1.75 percent of the remaining taxable gross revenues received during that calendar year for the issuance of health maintenance certificates or contracts. (V.T.I.C. Art. 4.11, Secs. 2(f), 5F, 5G, 5H; Art. 20A.33, Sec. (a) (part).)

Source Law

[Sec. 2]

(f) "Tax year" is the calendar year, January 1 to December 31.

Sec. 5F. (a) Except for gross premiums on life insurance taxed under Section 5G of this article and gross revenues of health maintenance organizations

1 taxed under Subsection (b) of this section and Section
2 5H of this article, beginning with tax year 1995, there
3 is imposed on each insurance carrier an annual tax
4 equal to 1.75 percent of its gross premiums.

5 (b) Beginning with tax year 1995, there is
6 imposed on each health maintenance organization
7 operating under the Texas Health Maintenance
8 Organization Act (Chapter 20A, Vernon's Texas
9 Insurance Code) an annual tax equal to 1.75 percent of
10 its gross amount of its revenues collected for
11 issuance of health maintenance certificates or
12 contracts.

13 Sec. 5G. There is imposed on each insurance
14 carrier a tax on the first \$450,000 of its gross
15 premiums on life insurance at a rate equal to one-half
16 of the rate paid by that insurance carrier under
17 Section 5, 5A, 5B, 5C, 5D, 5E, or 5F of this article, as
18 appropriate, for the same tax year.

19 Sec. 5H. There is imposed on each health
20 maintenance organization a tax on the first \$450,000
21 of its gross amount of revenues collected for issuance
22 of health maintenance certificates or contracts at a
23 rate equal to one-half of the rate paid by that health
24 maintenance organization under Section 5, 5A, 5B, 5C,
25 5D, 5E, or 5F of this article, as appropriate, for the
26 same tax year.

27 [Art. 20A.33]

28 (a) . . . each such health maintenance
29 organization shall pay an annual tax for the gross
30 amounts of revenues collected for the issuance of
31 health maintenance certificates or contracts at the
32 rate provided by Article 4.11, Insurance Code, as
33 amended. . . .

34 Revisor's Note

35 (1) Sections 5, 5A, 5B, 5C, 5D, and 5E, V.T.I.C.
36 Article 4.11, prescribe the tax rates for 1989, 1990,
37 1991, 1992, 1993, and 1994, respectively. The revised
38 law omits those provisions because they have expired.
39 The omitted law reads:

40 Sec. 5. (a) Except for gross
41 premiums on life insurance taxed under
42 Section 5G of this article and gross
43 revenues of health maintenance
44 organizations taxed under Subsection (b) of
45 this section and Section 5H of this article,
46 for the 1989 tax year and tax years
47 preceding the 1989 tax year, there is
48 imposed on each insurance carrier an annual
49 tax equal to 2.5 percent of its gross
50 premiums. Any insurance carrier may
51 qualify for a tax rate lower than the 2.5
52 percent imposed by this article. Such
53 qualification for a lower rate can be
54 accomplished in the following manner:

55 (1) if such insurance carrier
56 for the year ending December 31 preceding
57 owned Texas investments with admitted asset
58 value of less than or equal to 100 percent
59 but more than or equal to 90 percent of
60 similar investments such insurance carrier

1 owned in the comparison state as herein
2 defined, the tax imposed shall be equal to
3 1.8 percent of its gross premiums; or

4 (2) if such insurance carrier
5 for the year ending December 31 preceding
6 owned Texas investments with admitted asset
7 value of more than 100 percent of the amount
8 such insurance carrier owned in the
9 comparison state in similar investments as
10 herein defined, the tax imposed shall be
11 equal to 1.10 percent of its gross premiums.

12 (b) Except for gross revenues taxed
13 under Section 5H of this article, for the
14 tax years specified by Subsection (a) of
15 this section, there is imposed on each
16 health maintenance organization operating
17 under the Texas Health Maintenance
18 Organization Act (Chapter 20A, Vernon's
19 Texas Insurance Code) an annual tax on its
20 gross amount of revenues collected for
21 issuance of health maintenance certificates
22 or contracts at the rate provided by
23 Subsection (a)(2) of this section.

24 Sec. 5A. (a) Except for gross
25 premiums on life insurance taxed under
26 Section 5G of this article and gross
27 revenues of health maintenance
28 organizations taxed under Subsection (b) of
29 this section and Article 5H of this article,
30 for the 1990 tax year, there is imposed on
31 each insurance carrier an annual tax equal
32 to 2.4 percent of its gross premiums. Any
33 insurance carrier may qualify for a tax rate
34 lower than the 2.4 percent imposed by this
35 article. Such qualification for a lower
36 rate can be accomplished in the following
37 manner:

38 (1) if such insurance carrier
39 for the year ending December 31 preceding
40 owned Texas investments with admitted asset
41 value of less than or equal to 100 percent
42 but more than or equal to 90 percent of
43 similar investments such insurance carrier
44 owned in the comparison state as herein
45 defined, the tax imposed shall be equal to
46 1.85 percent of its gross premiums; or

47 (2) if such insurance carrier
48 for the year ending December 31 preceding
49 owned Texas investments with admitted asset
50 value of more than 100 percent of the amount
51 such insurance carrier owned in the
52 comparison state in similar investments as
53 herein defined, the tax imposed shall be
54 equal to 1.3 percent of its gross premiums.

55 (b) Except for gross revenues taxed
56 under Section 5H of this article, for the
57 tax year specified by Subsection (a) of this
58 section, there is imposed on each health
59 maintenance organization operating under
60 the Texas Health Maintenance Organization
61 Act (Chapter 20A, Vernon's Texas Insurance
62 Code) an annual tax on its gross amount of
63 revenues collected for issuance of health
64 maintenance certificates or contracts at
65 the rate provided by Subsection (a)(2) of
66 this section.

67 Sec. 5B. (a) Except for gross
68 premiums on life insurance taxed under

1 Section 5G of this article and gross
2 revenues of health maintenance
3 organizations taxed under Subsection (b) of
4 this section and Section 5H of this article,
5 for the 1991 tax year, there is imposed on
6 each insurance carrier an annual tax equal
7 to 2.3 percent of its gross premiums. Any
8 insurance carrier may qualify for a tax rate
9 lower than the 2.3 percent imposed by this
10 article. Such qualification for a lower
11 rate can be accomplished in the following
12 manner:

13 (1) if such insurance carrier
14 for the year ending December 31 preceding
15 owned Texas investments with admitted asset
16 value of less than or equal to 100 percent
17 but more than or equal to 90 percent of
18 similar investments such insurance carrier
19 owned in the comparison state as herein
20 defined, the tax imposed shall be equal to
21 1.85 percent of its gross premiums; or

22 (2) if such insurance carrier
23 for the year ending December 31 preceding
24 owned Texas investments with admitted asset
25 value of more than 100 percent of the amount
26 such insurance carrier owned in the
27 comparison state in similar investments as
28 herein defined, the tax imposed shall be
29 equal to 1.4 percent of its gross premiums.

30 (b) Except for gross revenues taxed
31 under Section 5H of this article, for the
32 tax year specified by Subsection (a) of this
33 section, there is imposed on each health
34 maintenance organization operating under
35 the Texas Health Maintenance Organization
36 Act (Chapter 20A, Vernon's Texas Insurance
37 Code) an annual tax on its gross amount of
38 revenues collected for issuance of health
39 maintenance certificates or contracts at
40 the rate provided by Subsection (a)(2) of
41 this section.

42 Sec. 5C. (a) Except for gross
43 premiums on life insurance taxed under
44 Section 5G of this article and gross
45 revenues of health maintenance
46 organizations taxed under Subsection (b) of
47 this section and Section 5H of this article,
48 for the 1992 tax year, there is imposed on
49 each insurance carrier an annual tax equal
50 to 2.2 percent of its gross premiums. Any
51 insurance carrier may qualify for a tax rate
52 lower than the 2.2 percent imposed by this
53 article. Such qualification for a lower
54 rate can be accomplished in the following
55 manner:

56 (1) if such insurance carrier
57 for the year ending December 31 preceding
58 owned Texas investments with admitted asset
59 value of less than or equal to 100 percent
60 but more than or equal to 90 percent of
61 similar investments such insurance carrier
62 owned in the comparison state as herein
63 defined, the tax imposed shall be equal to
64 1.85 percent of its gross premiums; or

65 (2) if such insurance carrier
66 for the year ending December 31 preceding
67 owned Texas investments with admitted asset
68 value of more than 100 percent of the amount

1 such insurance carrier owned in the
2 comparison state in similar investments as
3 herein defined, the tax imposed shall be
4 equal to 1.5 percent of its gross premiums.

5 (b) Except for gross revenues taxed
6 under Section 5H of this article, for the
7 tax year specified by Subsection (a) of this
8 section, there is imposed on each health
9 maintenance organization operating under
10 the Texas Health Maintenance Organization
11 Act (Chapter 20A, Vernon's Texas Insurance
12 Code) an annual tax on its gross amount of
13 revenues collected for issuance of health
14 maintenance certificates or contracts at
15 the rate provided by Subsection (a)(2) of
16 this section.

17 Sec. 5D. (a) Except for gross
18 premiums on life insurance taxed under
19 Section 5G of this article and gross
20 revenues of health maintenance
21 organizations taxed under Subsection (b) of
22 this section and Section 5H of this article,
23 for the 1993 tax year, there is imposed on
24 each insurance carrier an annual tax equal
25 to 2.1 percent of its gross premiums. Any
26 insurance carrier may qualify for a tax rate
27 lower than the 2.1 percent imposed by this
28 article. Such qualification for a lower
29 rate can be accomplished in the following
30 manner:

31 (1) if such insurance carrier
32 for the year ending December 31 preceding
33 owned Texas investments with admitted asset
34 value of less than or equal to 100 percent
35 but more than or equal to 90 percent of
36 similar investments such insurance carrier
37 owned in the comparison state as herein
38 defined, the tax imposed shall be equal to
39 1.85 percent of its gross premiums; or

40 (2) if such insurance carrier
41 for the year ending December 31 preceding
42 owned Texas investments with admitted asset
43 value of more than 100 percent of the amount
44 such insurance carrier owned in the
45 comparison state in similar investments as
46 herein defined, the tax imposed shall be
47 equal to 1.6 percent of its gross premiums.

48 (b) Except for gross revenues taxed
49 under Section 5H of this article, for the
50 tax year specified by Subsection (a) of this
51 section, there is imposed on each health
52 maintenance organization operating under
53 the Texas Health Maintenance Organization
54 Act (Chapter 20A, Vernon's Texas Insurance
55 Code) an annual tax on its gross amount of
56 revenues collected for issuance of health
57 maintenance certificates or contracts at
58 the rate provided by Subsection (a)(2) of
59 this section.

60 Sec. 5E. (a) Except for gross
61 premiums on life insurance taxed under
62 Section 5G of this article and gross
63 revenues of health maintenance
64 organizations taxed under Subsection (b) of
65 this section and Section 5H of this article,
66 for the 1994 tax year, there is imposed on
67 each insurance carrier an annual tax equal
68 to 2.0 percent of its gross premiums. Any

1 insurance carrier may qualify for a tax rate
2 lower than the 2.0 percent imposed by this
3 article. Such qualification for a lower
4 rate can be accomplished in the following
5 manner:

6 (1) if such insurance carrier
7 for the year ending December 31 preceding
8 owned Texas investments with admitted asset
9 value of less than or equal to 100 percent
10 but more than or equal to 90 percent of
11 similar investments such insurance carrier
12 owned in the comparison state as herein
13 defined, the tax imposed shall be equal to
14 1.85 percent of its gross premiums; or

15 (2) if such insurance carrier
16 for the year ending December 31 preceding
17 owned Texas investments with admitted asset
18 value of more than 100 percent of the amount
19 such insurance carrier owned in the
20 comparison state in similar investments as
21 herein defined, the tax imposed shall be
22 equal to 1.7 percent of its gross premiums.

23 (b) Except for gross revenues taxed
24 under Section 5H of this article, there is
25 imposed on each health maintenance
26 organization operating under the Texas
27 Health Maintenance Organization Act
28 (Chapter 20A, Vernon's Texas Insurance
29 Code) an annual tax on its gross amount of
30 revenues collected for issuance of health
31 maintenance certificates or contracts at
32 the rate provided by Subsection (a)(2) of
33 this section.

34 (2) Sections 2(b), (d), (e), and (g), V.T.I.C.
35 Article 4.11, define "comparison state," "similar
36 investments," "tax rate," and "Texas investments." In
37 addition, Section 4, V.T.I.C. Article 4.11, provides a
38 method for determining an insurer's or health
39 maintenance organization's "Texas investments." The
40 revised law omits those provisions because they apply
41 only to the computation of taxes for the tax years 1989
42 through 1994. The omitted law reads:

43 [Sec. 2. The following definitions
44 shall apply to this article:]

45 (b) "Comparison state" is
46 defined as the state other than Texas in
47 which a carrier owns the largest amount of
48 similar investments to those qualified and
49 enumerated in Section 4 of this article.

50 (d) "Similar investments" means
51 the same character of property and
52 investments described in Section 4 of this
53 article, located in a state other than Texas
54 and originating and existing with the same
55 relationship to such state as the location
56 and relationship of such property is to the
57 State of Texas.

1 (e) "Tax rate" means that rate
2 specified in Section 5 of this article as
3 determined by the carrier's Texas
4 investment comparison state similar
5 investments asset ratio.

6 (g) "Texas investments" are
7 those investments described and enumerated
8 in Section 4 of this article.

9 Sec. 4. (a) For the purposes of this
10 article, Texas investments and similar
11 investments of comparison states are to be
12 attributed as follows:

13 (1) bonds and other obligations
14 of the United States are to be allocated
15 proportionately to each state in the same
16 ratio as its gross direct premium income is
17 received from each state;

18 (2) mortgage loans are to be
19 allocated to the state in which the real
20 property securing the loan is located;

21 (3) bonds and other obligations
22 of governmental units are to be allocated to
23 the state in which such units are located;

24 (4) corporate stocks, bonds, or
25 other obligations are to be allocated to the
26 state of domicile of such corporation;

27 (5) deposits, loans to, or
28 investments in any bank, savings and loan,
29 or other financial institution shall be
30 allocated to the state in which such
31 institution is located; the amount of
32 "demand deposits" in such institution for
33 the purposes of this article shall be the
34 average of each of the 12 months' ending
35 balances as determined from the carrier's
36 books and records;

37 (6) policy loans shall be
38 allocated to the policy address of the
39 policyholder;

40 (7) collateral loans shall be
41 allocated to the state of address of the
42 borrower; and

43 (8) real property, or any
44 interest therein, shall be allocated to the
45 state in which it is located.

46 (b) The value of loans under
47 Subsections (a)(2), (6), and (7) of this
48 section is determined by dividing the sum of
49 the unpaid principal balance of those loans
50 as shown on the books of the insurance
51 carrier at the close of each calendar
52 quarter by four.

53 (c) The value of stocks, bonds, and
54 other obligations of governmental units and
55 corporations under Subsections (a)(1), (3),
56 and (4) of this section is determined by
57 dividing the sum of the amortized value of
58 those investments as shown on the books of
59 the insurance carrier at the close of each
60 calendar quarter by four.

61 (d) The value of real property and
62 any interest in real property under
63 Subsection (a)(8) of this section is
64 determined by dividing the sum of the value
65 of that real estate and other interests in
66 real property as shown on the books of the

1 insurance carrier at the close of each
2 calendar quarter by four.

3 Revised Law

4 Sec. 222.004. TAX DUE DATES. (a) The total tax imposed by
5 this chapter is due and payable not later than:

6 (1) March 1 after the end of the calendar year for
7 which the tax is due;

8 (2) the date the annual statement for the insurer or
9 health maintenance organization is required to be filed with the
10 commissioner after the end of the calendar year for which the tax is
11 due; or

12 (3) another date prescribed by the comptroller.

13 (b) An insurer or health maintenance organization that had a
14 net tax liability for the previous calendar year of more than \$1,000
15 shall make semiannual prepayments of tax on March 1 and August 1.
16 The tax paid on each date must be equal to 50 percent of the total
17 amount of tax the insurer or health maintenance organization paid
18 under this chapter for the previous calendar year. If the insurer
19 or health maintenance organization did not pay a tax under this
20 chapter during the previous calendar year, the tax paid on each date
21 must be equal to the tax that would be owed on the aggregate of the
22 taxable gross premiums or taxable gross revenues for the two
23 previous calendar quarters.

24 (c) The comptroller may refund any overpayment of taxes that
25 results from the semiannual prepayment system prescribed by this
26 section. (V.T.I.C. Art. 4.11, Secs. 3 (part), 13(a).)

27 Source Law

28 Sec. 3. . . . for each tax year ending the 31st
29 day of December preceding . . . the total amount of the
30 tax due under this article shall be paid on or before
31 either March 1 of each year, the date the annual
32 statement for such carrier is required to be filed with
33 the commissioner, or another date prescribed by the
34 comptroller.

35 Sec. 13. (a) A semiannual prepayment of
36 premium tax must be made on March 1 and August 1 by all
37 insurers with net tax liability for the previous
38 calendar year in excess of \$1,000. The tax paid on each
39 date must equal one-half of the total premium tax paid
40 for the previous calendar year. Should no premium tax
41 have been paid during the previous calendar year, the

1 semiannual payment shall equal the tax which would be
2 owed on the aggregate of the gross premium receipts for
3 the two previous calendar quarters at the minimum tax
4 rate specified by law. The comptroller is authorized
5 to refund any overpayment of premium taxes that
6 results from the semiannual prepayment system herein
7 established.

8 Revisor's Note

9 Section 13(a), V.T.I.C. Article 4.11, requires
10 certain prepayments to be made "at the minimum tax rate
11 specified by law." Before 1995, the tax imposed by
12 V.T.I.C. Article 4.11 was imposed at different rates
13 depending on the amount of Texas investments made by
14 the insurer or health maintenance organization. The
15 variable rates were phased out effective January 1,
16 1995. Therefore, the revised law omits the quoted
17 language.

18 Revised Law

19 Sec. 222.005. TAX REPORT. (a) An insurer or health
20 maintenance organization liable for the tax imposed by this chapter
21 must file annually with the comptroller a tax report on a form
22 prescribed by the comptroller.

23 (b) The tax report is due on the date the tax is due under
24 Section 222.004(a).

25 (c) The comptroller may require the insurer or health
26 maintenance organization to file any additional relevant
27 information that is reasonably necessary to verify the amount of
28 tax due. (V.T.I.C. Art. 4.11, Secs. 3 (part), 6.)

29 Source Law

30 Sec. 3. A premium tax return for each tax year
31 ending the 31st day of December preceding shall be
32 filed and . . . on or before either March 1 of each
33 year, the date the annual statement for such carrier is
34 required to be filed with the commissioner, or another
35 date prescribed by the comptroller.

36 Sec. 6. Each insurance carrier which is liable
37 under this article for tax on premiums shall file a tax
38 return annually on forms prescribed by the
39 comptroller. The comptroller may require such carrier
40 to file any relevant additional information reasonably
41 necessary to verify the amount of tax due.

1 Revisor's Note

2 (1) Section 3, V.T.I.C. Article 4.11, refers to
3 a "tax return." The revised law substitutes "tax
4 report" for "tax return" because, in the context of tax
5 law, the terms are synonymous and the former is more
6 commonly used.

7 (2) Section (a), V.T.I.C. Article 20A.33,
8 requires a health maintenance organization to file an
9 annual statement before March 1 that shows the gross
10 amount of revenues collected during the previous year.
11 The revised law omits this provision as unnecessary
12 because Section 843.155 of this code requires each
13 health maintenance organization to file such an annual
14 statement. The omitted law reads:

15 Art. 20A.33

16 (a) Each health maintenance
17 organization shall on or before the first
18 day of March of each year file its annual
19 statement showing the gross amount of
20 revenues collected during the year ending
21 December 31 preceding, and

22 Revised Law

23 Sec. 222.006. CHANGE IN DUE DATES. (a) The comptroller by
24 rule may change the dates for reporting and paying taxes under this
25 chapter to improve operating efficiencies within the agency.

26 (b) A change by the comptroller in a reporting or payment
27 date must retain the system of semiannual prepayments prescribed by
28 Section 222.004. (V.T.I.C. Art. 4.11, Sec. 13(b).)

29 Source Law

30 (b) The comptroller by rule may change the dates
31 for reporting and payment of taxes to improve
32 operating efficiencies within the agency, so long as a
33 system of semiannual prepayment of taxes imposed by
34 this article is maintained.

35 Revised Law

36 Sec. 222.007. CREDIT FOR FEES PAID. (a) Except as
37 provided by Section 803.007, an insurer or health maintenance
38 organization is entitled to a credit on the amount of tax due under
39 this chapter for all examination and valuation fees paid to or for

1 the use of this state during the calendar year for which the tax is
2 due.

3 (b) The credit provided by this section is in addition to
4 any other credit authorized by statute. (V.T.I.C. Art. 4.11, Sec.
5 8.)

6 Source Law

7 Sec. 8. The amount of all examination and
8 valuation fees paid during each tax year to or for the
9 use of the State of Texas by an insurance carrier shall
10 be allowed as a credit on the amount of premium taxes
11 due under this article except as provided by Article
12 1.28 of this code. Any credit allowed by the provisions
13 of this section is in addition to any other credits
14 allowable by statute.

15 Revised Law

16 Sec. 222.008. FAILURE TO PAY TAXES. An insurer or health
17 maintenance organization that fails to pay all taxes imposed by
18 this chapter is subject to Section 203.002. (V.T.I.C. Art. 4.11,
19 Sec. 10.)

20 Source Law

21 Sec. 10. Any insurance carrier failing to pay
22 all taxes imposed by this article shall be subject to
23 the provisions of Article 4.05, Insurance Code, and of
24 Subtitles A and B, Title 2, Tax Code, and their
25 subsequent amendments.

26 Revisor's Note

27 Section 10, V.T.I.C. Article 4.11, states that an
28 insurer or health maintenance organization that fails
29 to pay all taxes is subject to the provisions of
30 "Subtitles A and B, Title 2, Tax Code, and their
31 subsequent amendments." The revised law omits the
32 quoted language as unnecessary. The reference to
33 Subtitles A and B is omitted because Section 111.0022,
34 Tax Code, states that Subtitles A and B apply to the
35 administration, collection, and enforcement of any tax
36 the comptroller is required or authorized to collect
37 under a law other than the Tax Code. The reference to
38 "subsequent amendments" is omitted because under
39 Section 311.027, Government Code (Code Construction

Act), unless expressly provided otherwise, a reference to a statute applies to all reenactments, revisions, or amendments of the statute.

Revisor's Note
(End of Chapter)

Section (c), V.T.I.C. Article 20A.33, states that V.T.I.C. Articles 4.13, 4.14, and 4.15 apply to certain health maintenance organizations. The revised law omits this section as obsolete because those articles were repealed by Chapter 685, Acts of the 73rd Legislature, Regular Session, 1993. The omitted law reads:

(c) Each health maintenance organization covered by Subsection (a) of this section shall be subject to Articles 4.13, 4.14, and 4.15, Insurance Code.

CHAPTER 223. TITLE INSURANCE PREMIUM TAX

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CHAPTER 223. TITLE INSURANCE PREMIUM TAX

Revised Law

Sec. 223.001. APPLICABILITY OF CERTAIN DEFINITIONS. In this chapter, a term defined by Chapter 2501 has the meaning assigned by that chapter. (New.)

Revisor's Note

This chapter is derived from V.T.I.C. Article 9.59, part of the Texas Title Insurance Act. The

definitional provisions of the Texas Title Insurance Act that apply throughout that act are revised in Chapter 2501 of this code. Accordingly, this chapter includes a reference to the applicability of the definitions provided by that chapter of this code.

Revised Law

Sec. 223.002. APPLICABILITY OF CHAPTER. This chapter applies to a title insurance company that receives premiums subject to taxation under Section 223.003. (V.T.I.C. Art. 9.59, Sec. 1 (part).)

Source Law

Art. 9.59
Sec. 1. Each title insurance company receiving
premiums [from the business of title insurance]
. . . .

Revised Law

Sec. 223.003. TAX IMPOSED. (a) An annual tax is imposed on each title insurance company that receives premiums from the business of title insurance. The rate of the tax is 1.35 percent of the title insurance company's taxable premiums for a calendar year, including any premiums retained by a title insurance agent as provided by Section 223.005. For purposes of this chapter, a person engages in the business of title insurance if the person engages in an activity described by Section 2501.005.

(b) Except as provided by Subsection (c), in determining a title insurance company's taxable premiums, the company shall include the total amounts of premiums received in a calendar year from title insurance written on property located in this state.

(c) The following premiums are not included in determining a title insurance company's taxable premiums:

(1) premiums received from other title insurance companies for reinsurance; and

(2) returned premiums and dividends paid to policyholders.

(d) In determining a title insurance company's taxable

1 premiums, a title insurance company is not entitled to a deduction
2 for premiums paid for reinsurance. (V.T.I.C. Art. 9.59, Secs. 1
3 (part), 2, 3(a) (part), 4; New.)

4 Source Law

5 Sec. 1. [Each title insurance company receiving
6 premiums] from the business of title insurance shall
7 pay to the comptroller a tax on those premiums as
8 provided in this article.

9 Sec. 2. In this article premium means the total
10 amount of premiums received for the taxable year on
11 title insurance written on property located in this
12 state except premiums received from other licensed
13 title insurance companies for reinsurance, less return
14 premiums paid policyholders with no deduction for
15 premiums paid for reinsurance.

16 Sec. 3. (a) . . . each taxable year ending on
17 December 31

18 Sec. 4. There is imposed on all premium on title
19 insurance an annual tax equal to 1.35 percent.

20 Revisor's Note

21 (1) Section 1, V.T.I.C. Article 9.59, refers to
22 a title insurance company receiving premiums from "the
23 business of title insurance." Section (b), V.T.I.C.
24 Article 9.02, revised in this code in Section
25 2501.005, specifies the activities that constitute
26 engaging in the business of title insurance. The
27 revised law adds a reference to that section for the
28 convenience of the reader.

29 (2) Section 1, V.T.I.C. Article 9.59, requires
30 title insurance companies to pay a premium tax "to the
31 comptroller." The revised law omits the reference to
32 the comptroller as unnecessary. Section (a), V.T.I.C.
33 Article 1.04D, revised in this code in Section
34 201.051(a), requires the comptroller to collect taxes
35 imposed under this code.

36 (3) Section 2, V.T.I.C. Article 9.59, refers to
37 a "taxable year" and Section 3, V.T.I.C. Article 9.59,
38 refers to a "taxable year ending on December 31."
39 Throughout this chapter, the revised law substitutes
40 "calendar year" for "taxable year" because the terms
41 are synonymous and the former is more accurate.

1 (4) Section 2, V.T.I.C. Article 9.59, refers to
2 a "licensed" title insurance company. The revised law
3 omits the quoted language as unnecessary because
4 Section (c), V.T.I.C. Article 9.02, revised in Section
5 2501.003 of this code and applicable to this chapter,
6 defines a title insurance company to include only a
7 domestic company that is organized under the Texas
8 Title Insurance Act or that holds a certificate of
9 authority (license) or a foreign title insurance
10 company that holds a certificate of authority.

11 (5) Section 4, V.T.I.C. Article 9.59, imposes
12 "on all premium on title insurance an annual tax equal
13 to 1.35 percent." The revised law provides that the
14 "rate of the tax is 1.35 percent of the title insurance
15 company's taxable premiums for a calendar year,
16 including any premiums retained by a title insurance
17 agent as provided by Section 223.005." The revised law
18 adds the reference to premiums retained by a title
19 insurance agent for clarity and the convenience of the
20 reader.

21 Revised Law

22 Sec. 223.004. LIMITATION ON CERTAIN ADDITIONAL TAXES. (a)
23 Except as otherwise provided by this code or the Labor Code, a title
24 insurance company or title insurance agent subject to the tax
25 imposed by this chapter may not be required to pay any additional
26 tax imposed by this state or a county or municipality in proportion
27 to the company's or agent's gross premium receipts.

28 (b) This section does not:

29 (1) limit the applicability of other taxes, fees, and
30 assessments imposed by this code; or

31 (2) prohibit the imposition and collection of state,
32 county, and municipal taxes on the property of title insurance
33 companies or title insurance agents or state, county, and municipal
34 taxes imposed by other laws of this state, unless a specific

1 exemption for title insurance companies or title insurance agents
2 is provided in those laws. (V.T.I.C. Art. 9.59, Sec. 8(a).)

3 Source Law

4 Sec. 8. (a) Title insurance companies and
5 title insurance agents subject to the tax levied by
6 this article may not be required to pay any additional
7 tax in proportion to their gross premium receipts
8 levied by this state or any county or municipality
9 except as otherwise provided by this code and the Labor
10 Code. This exemption may not be construed to limit the
11 applicability of other taxes, fees, and assessments
12 that are imposed by other chapters of this code. This
13 exemption may not be construed to prohibit the levy and
14 collection of state, county, and municipal taxes on
15 the real and personal property of title insurance
16 companies and title insurance agents, or the levy and
17 collection of state, county, and municipal taxes that
18 are imposed by other laws of this state, unless a
19 specific exemption for title insurance companies and
20 title insurance agents is provided in those laws.

21 Revisor's Note

22 Section 8(a), V.T.I.C. Article 9.59, refers to
23 the imposition of taxes on "real and personal
24 property." The revised law omits the reference to
25 "real and personal" because under Section 311.005(4),
26 Government Code (Code Construction Act), "property"
27 includes both real and personal property. That
28 definition applies to the revised law.

29 Revised Law

30 Sec. 223.005. PREMIUMS PAID TO TITLE INSURANCE AGENT. (a)
31 Premiums received from the business of title insurance are subject
32 to the tax under this chapter regardless of whether paid to a title
33 insurance company or retained by a title insurance agent, with the
34 tax being in lieu of the tax on the premiums retained by a title
35 insurance agent.

36 (b) The state facilitates the collection of the premium tax
37 on the premiums retained by a title insurance agent by establishing
38 the division of the premiums between the title insurance company
39 and title insurance agent so that the company receives the premium
40 tax due on the agent's portion of the premiums and remits it to the
41 state. (V.T.I.C. Art. 9.59, Sec. 8(b).)

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Revised Law

Sec. 223.006. TAX DUE DATES. (a) The total tax imposed by this chapter is due and payable not later than:

- (1) March 1 after the end of the calendar year for which the tax is due; or
- (2) another date prescribed by the comptroller.

(b) A title insurance company that had a net tax liability for the previous calendar year of more than \$1,000 shall make semiannual prepayments of tax on March 1 and August 1. The tax paid on each date must be equal to 50 percent of the total amount of tax the company paid under this chapter for the previous calendar year. If the company did not pay a tax under this chapter during the previous calendar year, the tax paid on each date must be equal to the tax that would be owed on the aggregate of the gross premiums for the two previous calendar quarters.

(c) The comptroller may refund any overpayment of taxes that results from the semiannual prepayment system prescribed by this section. (V.T.I.C. Art. 9.59, Secs. 3(a) (part), (b).)

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(a) . . . for each taxable year ending on December 31 of the preceding year . . . and the total amount of the tax due under this article shall be paid on or before March 1 of each year or another date prescribed by the comptroller.

(b) A semiannual prepayment of premium tax must be made on March 1 and August 1 by all insurers with net tax liability for the previous calendar year of more than \$1,000. The tax paid on each date must equal one-half of the total premium tax paid for the previous calendar year. If no premium tax has been paid during the previous calendar year, the semiannual payment shall equal the tax that would be owed on the aggregate of the gross premium receipts for the two previous calendar quarters at the minimum tax rate specified by law. The comptroller may refund any overpayment of premium taxes that results from the semiannual

1 prepayment system established by this subsection.

2 Revisor's Note

3 Section 3(b), V.T.I.C. Article 9.59, requires
4 certain prepayments to be made "at the minimum tax rate
5 specified by law." Before 1999, the rate of the tax
6 imposed by V.T.I.C. Article 9.59 ranged from 1.3
7 percent to two percent depending on the amount of Texas
8 investments made by an insurer. The variable rates
9 were repealed by Chapter 852, Acts of the 76th
10 Legislature, Regular Session, 1999. Therefore, the
11 revised law omits the reference to the quoted
12 language.

13 Revised Law

14 Sec. 223.007. TAX REPORTS. (a) A title insurance company
15 liable for the tax imposed by this chapter must file annually with
16 the comptroller a tax report on a form prescribed by the
17 comptroller.

18 (b) The tax report is due on the date the tax is due under
19 Section 223.006(a). (V.T.I.C. Art. 9.59, Secs. 3(a) (part), 5.)

20 Source Law

21 Sec. 3. (a) A premium tax return for each
22 taxable year ending on December 31 of the preceding
23 year shall be filed . . . on or before March 1 of each
24 year or another date prescribed by the comptroller.

25 Sec. 5. Each title insurance company that is
26 liable under this article to remit tax on premium shall
27 file a tax return annually on forms prescribed by the
28 comptroller.

29 Revisor's Note

30 Sections 3(a) and 5, V.T.I.C. Article 9.59, refer
31 to a "tax return." The revised law substitutes "tax
32 report" for "tax return" because, in the context of tax
33 law, the terms are synonymous and the former is more
34 commonly used.

35 Revised Law

36 Sec. 223.008. RULES. (a) The commissioner or the
37 comptroller, as appropriate, may adopt fair and reasonable rules,

1 minimum standards, and limitations as appropriate to augment and
2 implement this chapter.

3 (b) This section does not affect the comptroller's general
4 authority to adopt rules to promote the efficient administration,
5 collection, enforcement, and reporting of taxes under this code or
6 another insurance law of this state. (V.T.I.C. Art. 9.59, Sec.
7 3(c).)

8 Source Law

9 (c) Without limiting the general authority of
10 the comptroller to adopt rules to promote the
11 efficient administration, collection, enforcement,
12 and reporting of taxes under this code or another
13 insurance law of this state, the commissioner or
14 comptroller, as appropriate, may adopt rules,
15 regulations, minimum standards, and limitations that
16 are fair and reasonable as may be appropriate for the
17 augmentation and implementation of this article.

18 Revisor's Note

19 Section 3(c), V.T.I.C. Article 9.59, refers to
20 "rules" and "regulations." The revised law omits the
21 reference to "regulations" because under Section
22 311.005(5), Government Code (Code Construction Act), a
23 rule is defined to include a regulation. That
24 definition applies to the revised law.

25 Revised Law

26 Sec. 223.009. CREDIT FOR FEES PAID. (a) Except as
27 provided by Section 803.007, a title insurance company is entitled
28 to a credit on the amount of tax due under this chapter for all
29 examination and evaluation fees paid to or for the use of the state
30 during the calendar year for which the tax is due.

31 (b) The credit provided by this section is in addition to
32 any other credit authorized by statute. (V.T.I.C. Art. 9.59, Sec.
33 7.)

34 Source Law

35 Sec. 7. The amount of all examination and
36 evaluation fees paid in each taxable year to or for the
37 use of the State of Texas by a title insurance company
38 shall be allowed as a credit on the amount of premium
39 taxes due under this article except as provided by
40 Article 1.28 of this code. Any credit allowed by this
41 section is in addition to any other credits allowed by

1 law.

2 Revised Law

3 Sec. 223.010. FAILURE TO PAY TAXES. A title insurance
4 company that fails to pay all taxes imposed by this chapter is
5 subject to Section 203.002. (V.T.I.C. Art. 9.59, Sec. 9.)

6 Source Law

7 Sec. 9. A title insurance company failing to pay
8 all taxes imposed by this article is also subject to
9 Article 4.05 of this code.

10 Revisor's Note

11 Section 9, V.T.I.C. Article 9.59, states that a
12 title insurance company that fails to pay taxes is
13 "also" subject to V.T.I.C. Article 4.05, revised in
14 this code in Section 203.002. The revised law omits
15 "also," which relates to the cumulative effect of the
16 section. An accepted principle of statutory
17 construction requires a statute to be given cumulative
18 effect with other statutes unless it provides
19 otherwise or unless the statutes are in conflict. The
20 general principle applies to this revision.

21 Revised Law

22 Sec. 223.011. DISPOSITION OF REVENUE. Chapter 227 applies
23 to the disposition of the revenue from the tax imposed by this
24 chapter. (V.T.I.C. Art. 9.59, Sec. 15.)

25 Source Law

26 Sec. 15. Article 4.12 applies to title
27 insurance companies which are subject to this article.

28 CHAPTER 224. RECIPROCAL AND INTERINSURANCE

29 EXCHANGE PREMIUM TAX

30 Sec. 224.001. APPLICABILITY OF CHAPTER. 70
31 Sec. 224.002. TAX IMPOSED; RATE 71
32 Sec. 224.003. TAXATION ELECTION. 72

33 CHAPTER 224. RECIPROCAL AND INTERINSURANCE EXCHANGE PREMIUM TAX

34 Revised Law

35 Sec. 224.001. APPLICABILITY OF CHAPTER. This chapter
36 applies to a reciprocal or interinsurance exchange that has a

1 certificate of authority to engage in business in this state.
2 (V.T.I.C. Arts. 4.11B, Sec. 1; 4.11C, Sec. 1.)

3 Source Law

4 Art. 4.11B
5 Sec. 1. In this article, "reciprocal exchange"
6 means a reciprocal or interinsurance exchange licensed
7 to transact business in this state.

8 Art. 4.11C
9 Sec. 1. In this article, "reciprocal exchange"
10 has the meaning assigned by Article 4.11B of this code.

11 Revisor's Note

12 Section 1, V.T.I.C. Article 4.11B, refers to a
13 reciprocal or interinsurance exchange "licensed" to
14 transact business in this state. The revised law
15 substitutes "certificate of authority" for license
16 because "certificate of authority" is the term used in
17 Chapter 942 and throughout this code in relation to an
18 exchange's authority to engage in business.

19 Revised Law

20 Sec. 224.002. TAX IMPOSED; RATE. (a) An annual tax is
21 imposed on each reciprocal or interinsurance exchange that:

22 (1) does not file an election to be subject to the tax
23 imposed by Chapter 221 in accordance with Section 224.003; or

24 (2) withdraws that election.

25 (b) The rate of the tax is 1.7 percent of the reciprocal or
26 interinsurance exchange's gross premium receipts.

27 (c) A reciprocal or interinsurance exchange that is subject
28 to the tax imposed by this chapter is not subject to the tax imposed
29 by Chapter 221.

30 (d) Except as provided by Subsection (b), Chapter 221
31 applies to the imposition, computation, and administration of the
32 tax imposed by this chapter in the same manner that Chapter 221
33 applies to the tax imposed by that chapter. (V.T.I.C. Arts. 4.11B,
34 Sec. 2; 4.11C, Secs. 2 (part), 5 (part).)

35 Source Law

36 [Art. 4.11B]
37 Sec. 2. (a) There is imposed on each

1 reciprocal exchange transacting business in this state
2 an annual tax equal to 1.7 percent of its gross premium
3 receipts.

4 (b) Except for the tax rate, the amount of taxes
5 imposed, and the investment provisions, Article 4.10
6 of this code applies to the imposition, computation,
7 and administration of the tax imposed under this
8 article in the same manner that Article 4.10,
9 Insurance Code, applies to the taxes imposed under
10 that article.

11 [Art. 4.11C]

12 Sec. 2. . . . If a reciprocal exchange does not
13 file an election as provided by this article or has
14 withdrawn the election, the reciprocal exchange is
15 subject to the tax imposed under Article 4.11B of this
16 code.

17 Sec. 5. . . . and the gross premiums are not
18 subject to a tax under Article 4.10 of this code if the
19 premiums are taxed under Article 4.11B of this code.

20 Revisor's Note

21 Section 2(b), V.T.I.C. Article 4.11B, states that
22 V.T.I.C. Article 4.10, revised in this code as Chapter
23 221, applies to the computation of taxes "[e]xcept for
24 the tax rate, the amount of taxes imposed, and the
25 investment provisions." The revised law omits the
26 references to the "amount of taxes imposed" and the
27 "investment provisions" because Chapter 852, Acts of
28 the 76th Legislature, Regular Session, 1999, repealed
29 the investment provisions of V.T.I.C. Article 4.10 and
30 the provision in Article 4.10 under which the amount of
31 tax imposed was based on an insurer's investments.

32 Revised Law

33 Sec. 224.003. TAXATION ELECTION. (a) A reciprocal or
34 interinsurance exchange may elect to be subject to the tax imposed
35 by Chapter 221.

36 (b) A reciprocal or interinsurance exchange that elects to
37 be subject to the tax imposed by Chapter 221 must file with the
38 comptroller on a form prescribed by the comptroller a written
39 statement that the exchange has elected to be subject to that tax.
40 The exchange must file the form not later than the 31st day before
41 the date on which the tax year for which the election is to be
42 effective begins.

43 (c) A reciprocal or interinsurance exchange that elects to

1 be subject to the tax imposed by Chapter 221 continues to be subject
2 to that tax for each tax year until the exchange withdraws the
3 election under Subsection (d).

4 (d) A reciprocal or interinsurance exchange may withdraw an
5 election made under Subsection (b) by filing with the comptroller
6 written notice of the withdrawal. The exchange must file the notice
7 not later than the 31st day before the date on which the tax year for
8 which the withdrawal is to be effective begins.

9 (e) A reciprocal or interinsurance exchange that elects to
10 be subject to the tax imposed by Chapter 221 is not subject to the
11 tax imposed by Section 224.002. (V.T.I.C. Art. 4.11C, Secs. 2
12 (part), 3, 5 (part).)

13 Source Law

14 Sec. 2. A reciprocal exchange may elect to be
15 subject to the tax imposed under Article 4.10 of this
16 code, or to be subject to the tax imposed under Article
17 4.11B of this code. A reciprocal exchange that elects
18 to be taxed under Article 4.10 of this code must file
19 with the comptroller not later than the 31st day before
20 the day on which the tax year for which the election is
21 to be effective begins a written statement on a form
22 adopted by the comptroller stating that an election
23 has been made. . . .

24 Sec. 3. A reciprocal exchange that elects to be
25 taxed under Article 4.10 of this code will continue to
26 be taxed under that article for each tax year until
27 written notice is given to the comptroller that the
28 election to be taxed under that article is withdrawn.
29 The notice of withdrawal must be filed with the
30 comptroller not later than the 31st day before the
31 beginning of the tax year for which the withdrawal is
32 to be effective.

33 Sec. 5. The gross premiums of a reciprocal
34 exchange are not subject to a tax under Article 4.11B
35 of this code if the premiums are taxed under Article
36 4.10 of this code,

37 Revisor's Note

38 Section 2, V.T.I.C. Article 4.11C, states that a
39 reciprocal or interinsurance exchange may elect to be
40 taxed under V.T.I.C. Article 4.10, revised in this
41 code as Chapter 221, or under V.T.I.C. Article 4.11B,
42 revised in this chapter. The revised law omits the
43 reference to an election to be taxed under Article
44 4.11B because the only election provided by Article

4.11C is the election to be taxed under Article 4.10 instead of under Article 4.11B.

Revisor's Note
(End of Chapter)

Section 4, V.T.I.C. Article 4.11C, states that the comptroller may adopt necessary forms and procedures to carry out that article and that the comptroller by rule may change the dates for reporting and paying taxes. The revised law omits the reference to adopting forms and procedures as unnecessary because Section (c), V.T.I.C. Article 1.04D, revised in this code in Section 201.051, authorizes the comptroller to adopt forms and otherwise adopt rules necessary for the comptroller to administer, collect, and enforce insurance taxes. The revised law omits the reference to changing the dates for reporting and paying taxes as unnecessary because Section 2(b), V.T.I.C. Article 4.11B, revised in this chapter as Section 224.002, provides that the tax imposed under this chapter is to be imposed, computed, and administered in the same manner as the tax imposed under V.T.I.C. Article 4.10, revised in this code as Chapter 221. Section 6(c), V.T.I.C. Article 4.10, revised in this code as Section 221.005, provides the comptroller identical authority to change the dates for reporting and paying taxes. The omitted law reads:

Sec. 4. The comptroller by rule may adopt necessary forms and procedures to carry out this article. The comptroller by rule may change the dates for reporting and payment of taxes to improve operating efficiencies within the agency, so long as a system of semiannual prepayment of taxes imposed by this article is maintained.

CHAPTER 225. SURPLUS LINES INSURANCE PREMIUM TAX

Sec. 225.001. DEFINITION. 75

Sec. 225.002. APPLICABILITY OF CHAPTER. 75

1 Sec. 225.003. APPLICABILITY OF GENERAL PROVISIONS
2 OF OTHER LAW 76
3 Sec. 225.004. TAX IMPOSED; RATE 76
4 Sec. 225.005. TAX EXCLUSIVE 77
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10 Sec. 225.011. CANCELED OR REWRITTEN INSURANCE CONTRACT 79
11 Sec. 225.012. STATE AS PREFERRED CREDITOR 79
12 Sec. 225.013. FAILURE TO PAY TAXES; CRIMINAL PENALTY 80

13 CHAPTER 225. SURPLUS LINES INSURANCE PREMIUM TAX

14 Revised Law

15 Sec. 225.001. DEFINITION. In this chapter, "premium"
16 includes:
17 (1) a premium;
18 (2) a membership fee;
19 (3) an assessment;
20 (4) dues; and
21 (5) any other consideration for surplus lines
22 insurance. (V.T.I.C. Art. 1.14-2, Sec. 12(a) (part).)

23 Source Law

24 Sec. 12. (a) . . . The term premium includes
25 all premiums, membership fees, assessments, dues or
26 any other consideration for insurance. . . .

27 Revised Law

28 Sec. 225.002. APPLICABILITY OF CHAPTER. This chapter
29 applies to a surplus lines agent who collects gross premiums for
30 surplus lines insurance. (V.T.I.C. Art. 1.14-2, Sec. 12(a)
31 (part).)

32 Source Law

33 (a) The premiums charged for surplus lines
34 insurance are subject to a premium receipts tax [of
35 4.85 percent of] gross [premiums charged for such
36 insurance.] . . . The surplus lines agent [shall
37 collect from the insured the amount of the tax]

1 Revised Law

2 Sec. 225.003. APPLICABILITY OF GENERAL PROVISIONS OF OTHER
3 LAW. The provisions of Chapter 981, including provisions relating
4 to the applicability and enforcement of that chapter, rulemaking
5 authority under that chapter, and definitions of terms applicable
6 in that chapter, apply to this chapter. (V.T.I.C. Art. 1.14-2,
7 Sec. 12(e).)

8 Source Law

9 (e) The provisions of Chapter 981 of this code,
10 including provisions relating to the applicability and
11 enforcement of that chapter, rulemaking authority
12 under that chapter, and definitions of terms
13 applicable in that chapter, apply to this section.

14 Revised Law

15 Sec. 225.004. TAX IMPOSED; RATE. (a) A tax is imposed on
16 gross premiums for surplus lines insurance. The rate of the tax is
17 4.85 percent of the gross premiums.

18 (b) Taxable gross premiums under this section are based on
19 gross premiums written or received for surplus lines insurance
20 placed through an eligible surplus lines insurer during a calendar
21 year.

22 (c) If a surplus lines insurance policy covers risks or
23 exposures only partially located in this state, the tax is computed
24 on the portion of the premium that is properly allocated to a risk
25 or exposure located in this state.

26 (d) In determining the amount of taxable premiums under
27 Subsection (c), a premium, other than a premium properly allocated
28 or apportioned and reported as a premium that may be subject to
29 taxation by another state, is considered to be written on property
30 or risks located or resident in this state if the premium:

31 (1) is written, procured, or received in this state;
32 or

33 (2) is for a policy negotiated in this state.

34 (e) The following premiums are not taxable in this state:

35 (1) premiums properly allocated to another state that
36 are specifically exempt from taxation in that state; and

1 (2) premiums on risks or exposures that are properly
2 allocated to federal or international waters or are under the
3 jurisdiction of a foreign government. (V.T.I.C. Art. 1.14-2, Sec.
4 12(a) (part).)

5 Source Law

6 (a) The premiums charged for surplus lines
7 insurance are subject to a premium receipts tax of 4.85
8 percent of gross premiums charged for such insurance.
9 The term premium includes all premiums, membership
10 fees, assessments, dues or any other consideration for
11 insurance. . . . The amount of taxes shall be based on
12 gross premiums written or received for such insurance
13 placed through an eligible surplus lines insurer
14 during the calendar year ending on the preceding
15 December 31. . . . If a surplus lines policy covers
16 risks or exposures only partially in this state, the
17 tax payable shall be computed on the portions of the
18 premium which are properly allocated to the risks or
19 exposures located in this state. In determining the
20 amount of premiums taxable in this state, all premiums
21 written, procured, or received in this state and all
22 premiums on policies negotiated in this state shall be
23 deemed written on property or risks located or
24 resident in this state, except such premiums as are
25 properly allocated or apportioned and reported as
26 premiums which may be subject to taxation by any other
27 state or states. Premiums that are properly allocated
28 to any other state or states that are specifically
29 exempt from taxation under the regulations of that
30 state or states are not taxable in this state.
31 Premiums on risks or exposures which are properly
32 allocated to federal waters, international waters or
33 under the jurisdiction of a foreign government shall
34 not be taxable by this state. . . .

35 Revised Law

36 Sec. 225.005. TAX EXCLUSIVE. The tax imposed by this
37 chapter is in lieu of all other insurance taxes. (V.T.I.C.
38 Art. 1.14-2, Sec. 12(a) (part).)

39 Source Law

40 (a) . . . Such tax shall be in lieu of all
41 other insurance taxes. . . .

42 Revised Law

43 Sec. 225.006. COLLECTION OF TAX BY AGENT. The surplus
44 lines agent shall collect from the insured the tax imposed by this
45 chapter at the time of delivery of the cover note, certificate of
46 insurance, policy, or other initial confirmation of insurance and
47 the full amount of the gross premium charged by the eligible surplus
48 lines insurer for the insurance. (V.T.I.C. Art. 1.14-2, Sec. 12(a)

1 (part).)

2 Source Law

3 (a) . . . The surplus lines agent shall collect
4 from the insured the amount of the tax at the time of
5 delivery of the cover note, certificate of insurance,
6 policy or other initial confirmation of insurance, in
7 addition to the full amount of the gross premium
8 charged by the insurer for the insurance. . . .

9 Revised Law

10 Sec. 225.007. COLLECTED TAXES HELD IN TRUST. A surplus
11 lines agent holds taxes collected under this chapter in trust.
12 (V.T.I.C. Art. 1.14-2, Sec. 12(b) (part).)

13 Source Law

14 (b) All surplus lines premium receipt taxes
15 collected by a surplus lines agent are trust funds in
16 his hands. . . .

17 Revised Law

18 Sec. 225.008. TAX PAYMENT, REPORT, AND DUE DATE. (a) The
19 tax imposed by this chapter is due and payable on or before March 1.
20 A surplus lines agent shall file a tax report with the tax payment.

21 (b) A surplus lines agent shall pay the tax imposed by this
22 chapter and file the report using forms prescribed by the
23 comptroller. (V.T.I.C. Art. 1.14-2, Sec. 12(a) (part).)

24 Source Law

25 (a) . . . The surplus lines agent shall file a
26 report and pay taxes to the comptroller on or before
27 March 1 of each year on forms prescribed by the
28 comptroller. . . .

29 Revisor's Note

30 Section 12(a), V.T.I.C. Article 1.14-2, requires
31 a surplus lines agent to pay a premium tax "to the
32 comptroller." The revised law omits the reference to
33 the comptroller as unnecessary. Section (a), V.T.I.C.
34 Article 1.04D, revised in this code in Section
35 201.051(a), requires the comptroller to collect taxes
36 imposed under this code.

37 Revised Law

38 Sec. 225.009. PREPAYMENT OF TAX. (a) A surplus lines
39 agent shall prepay the tax imposed by this chapter when the amount

1 of the accrued taxes due is equal to at least \$70,000.

2 (b) A surplus lines agent shall prepay the taxes using a
3 form prescribed by the comptroller. The prepayment is due on or
4 before the 15th day of the month following the month in which the
5 amount of taxes described by this section accrues. (V.T.I.C.
6 Art. 1.14-2, Sec. 12(a) (part).)

7 Source Law

8 (a) . . . A tax prepayment shall be required any
9 time accrued taxes due equal or exceed \$70,000. The
10 prepayment of the accrued taxes, with a form
11 prescribed by the comptroller, shall be due by the 15th
12 day of the month following the month in which accrued
13 taxes total \$70,000. . . .

14 Revised Law

15 Sec. 225.010. TAX ABSORPTION AND REBATES PROHIBITED. (a)
16 A surplus lines agent may not absorb the tax imposed by this
17 chapter.

18 (b) A surplus lines agent may not rebate all or part of the
19 tax or the agent's commission as an inducement for insurance or for
20 any other reason. (V.T.I.C. Art. 1.14-2, Sec. 12(a) (part).)

21 Source Law

22 (a) . . . No agent shall absorb such tax nor
23 shall any agent, as an inducement for insurance or for
24 any other reason, rebate all or any part of such tax or
25 his commission. . . .

26 Revised Law

27 Sec. 225.011. CANCELED OR REWRITTEN INSURANCE CONTRACT. If
28 a surplus lines insurance contract is canceled and rewritten, the
29 additional premium for purposes of the tax imposed by this chapter
30 is the premium amount that exceeds the unearned premium of the
31 canceled contract. (V.T.I.C. Art. 1.14-2, Sec. 12(a) (part).)

32 Source Law

33 (a) . . . In event of cancellation and
34 rewriting of any surplus lines insurance contract the
35 additional premium for premium receipts tax purposes
36 shall be the premium in excess of the unearned premium
37 of the canceled insurance contract.

38 Revised Law

39 Sec. 225.012. STATE AS PREFERRED CREDITOR. If the property
40 of a surplus lines agent is seized as the result of an intermediate

1 or final decision of a court in this state, or if the business of a
2 surplus lines agent is suspended by the action of a creditor or
3 turned over to an assignee, receiver, or trustee, the tax imposed by
4 this chapter and penalties due the state from the agent are
5 preferred claims and the state is a preferred creditor and must be
6 paid in full. (V.T.I.C. Art. 1.14-2, Sec. 12(c).)

7 Source Law

8 (c) If the property of any surplus lines agent
9 is seized upon any mesne or final process in any court
10 in this state, or when the business of any surplus
11 lines agent is suspended by the action of creditors or
12 put into the hands of any assignee, receiver or
13 trustee, all surplus lines premium receipts tax money
14 and penalties due the state from such surplus lines
15 agent shall be considered preferred claims and the
16 state shall be a preferred creditor and shall be paid
17 in full.

18 Revisor's Note

19 Section 12(c), V.T.I.C. Article 1.14-2, refers to
20 property "seized upon any mesne or final process in any
21 court." The revised law substitutes "intermediate"
22 for "mesne" because the terms are synonymous and the
23 former is more consistent with modern usage. The
24 revised law also substitutes "final decision" for
25 "final process" because the phrases are synonymous and
26 the former is more commonly used.

27 Revised Law

28 Sec. 225.013. FAILURE TO PAY TAXES; CRIMINAL PENALTY. (a)
29 A surplus lines agent who does not pay the tax imposed by this
30 chapter on or before the due date required by this chapter or who
31 fraudulently withholds, appropriates, or otherwise uses any
32 portion of the tax commits the offense of theft, regardless of
33 whether the surplus lines agent has or claims an interest in the
34 tax.

35 (b) An offense under this section is punishable as provided
36 by law. (V.T.I.C. Art. 1.14-2, Sec. 12(b) (part).)

37 Source Law

38 (b) . . . Any surplus lines agent who fails or
39 refuses to pay over to the state the surplus lines

1 premium receipts tax at the time required by this
2 section, or who fraudulently withholds or appropriates
3 or otherwise uses such money or any portions thereof
4 belonging to the state is guilty of theft and shall be
5 punished as provided by law for the crime of theft,
6 irrespective of whether any such surplus lines agent
7 has or claims to have any interest in such money so
8 received by him.

9 Revisor's Note
10 (End of Chapter)

11 (1) Section 12(d), V.T.I.C. Article 1.14-2,
12 requires the attorney general to institute court
13 proceedings to recover "license fees not paid [by a
14 surplus lines agent] within the time prescribed" by
15 Chapter 981, Insurance Code. The revised law omits
16 this provision as misleading and unnecessary because a
17 surplus lines agent may not receive a license or other
18 authorization to engage in the business of insurance
19 without paying a fee required under Chapter 981. Thus,
20 the attorney general does not institute court
21 proceedings to "recover license fees." The omitted
22 law reads:

23 (d) The Attorney General, upon
24 request of the commissioner, shall proceed
25 in the courts of this or any other state or
26 in any federal court or agency to recover
27 license fees not paid within the time
28 prescribed in this Article. . . .

29 (2) Section 12(d), V.T.I.C. Article 1.14-2,
30 provides that Subtitles A and B, Title 2, Tax Code, and
31 their subsequent amendments, apply to a tax collected
32 under this article. The revised law omits that
33 language as unnecessary. The reference to Subtitles A
34 and B is omitted because Section 111.0022, Tax Code,
35 states that Subtitles A and B apply to the
36 administration, collection, and enforcement of any tax
37 the comptroller is required or authorized to collect
38 under a law other than the Tax Code. The reference to
39 "subsequent amendments" is omitted because under
40 Section 311.027, Government Code (Code Construction
41 Act), unless expressly provided otherwise, a reference

to a statute applies to all reenactments, revisions,
or amendments of that statute. The omitted law reads:

(d) . . . Notwithstanding the
preceding sentence, Subtitles A and B,
Title 2, Tax Code, and their subsequent
amendments, apply to a tax collected under
this Article.

CHAPTER 226. UNAUTHORIZED AND INDEPENDENTLY PROCURED
INSURANCE PREMIUM TAX

SUBCHAPTER A. UNAUTHORIZED INSURANCE PREMIUM TAX

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[Sections 226.006-226.050 reserved for expansion]

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CHAPTER 226. UNAUTHORIZED AND INDEPENDENTLY PROCURED INSURANCE
PREMIUM TAX

SUBCHAPTER A. UNAUTHORIZED INSURANCE PREMIUM TAX

Revised Law

Sec. 226.001. DEFINITION. In this subchapter, "premium"
includes any consideration for insurance, including:

- (1) a premium;
- (2) a membership fee;
- (3) an assessment; or
- (4) dues. (Ins. Code, Sec. 101.251(a).)

Source Law

Sec. 101.251. PREMIUM RECEIPTS TAX. (a) In
this section, "premium" includes any consideration for
insurance, including:

- (1) a premium;
- (2) a membership fee;
- (3) an assessment; or
- (4) dues.

Revised Law

Sec. 226.002. APPLICABILITY OF SUBCHAPTER. This subchapter applies to an unauthorized insurer who charges gross premiums for insurance on a subject resident, located, or to be performed in this state. (Ins. Code, Sec. 101.251(b) (part).)

Source Law

(b) . . . an unauthorized insurer [shall pay . . . a premium receipts tax of 4.85 percent] of gross premiums charged for insurance on a subject resident, located, or to be performed in this state.

Revised Law

Sec. 226.003. TAX IMPOSED; RATE. (a) A tax is imposed on each unauthorized insurer that charges gross premiums subject to taxation under this section. The rate of the tax is 4.85 percent of the gross premiums charged by the unauthorized insurer.

(b) Except as otherwise provided by this section, in determining an unauthorized insurer's taxable gross premiums, the insurer shall include any premium for insurance on a subject resident, located, or to be performed in this state.

(c) If a policy covers risks or exposures only partially located in this state, the tax is computed on the portion of the premium that is properly allocated to a risk or exposure located in this state.

(d) In determining the amount of taxable premiums under Subsection (c), a premium, other than a premium properly allocated or apportioned and reported as a taxable premium of another state, is considered to be written on property or risks located or resident in this state if the premium:

(1) is written, procured, or received in this state;

or

(2) is for a policy negotiated in this state.

(e) Insurance on a subject resident, located, or to be performed in this state is considered to be insurance procured,

1 continued, or renewed in this state regardless of the location from
2 which:

- 3 (1) the application is made;
- 4 (2) the negotiations are conducted; or
- 5 (3) the premiums are remitted.

6 (f) Premiums on risks or exposures that are properly
7 allocated to federal waters or international waters or are under
8 the jurisdiction of a foreign government are not taxable by this
9 state.

10 (g) The following premiums are not subject to the tax
11 imposed by this subchapter:

12 (1) premiums on insurance procured by a licensed
13 surplus lines agent from an eligible surplus lines insurer as
14 defined by Chapter 981 on which premium tax is paid in accordance
15 with Chapter 225; and

16 (2) premiums on an independently procured contract of
17 insurance on which premium tax is paid in accordance with
18 Subchapter B. (Ins. Code, Secs. 101.251(b) (part), (c), (d), (e),
19 (f), (j).)

20 Source Law

21 (b) Except as provided by Subsection (j), an
22 unauthorized insurer shall pay . . . a premium
23 receipts tax of 4.85 percent of gross premiums charged
24 for insurance on a subject resident, located, or to be
25 performed in this state.

26 (c) If a policy covers risks or exposures only
27 partially in this state, the tax payable is computed on
28 the portion of the premium that is properly allocated
29 to a risk or exposure located in this state.

30 (d) In determining the amount of taxable
31 premiums under Subsection (c), all premiums, other
32 than premiums properly allocated or apportioned and
33 reported as taxable premiums of another state, that
34 are written, procured, or received in this state or
35 that are for a policy negotiated in this state are
36 considered to be written on property or risks located
37 or resident in this state.

38 (e) Insurance on a subject resident, located, or
39 to be performed in this state is considered to be
40 insurance procured, continued, or renewed in this
41 state regardless of the location from which:

- 42 (1) the application is made;
- 43 (2) the negotiations are conducted; or
- 44 (3) the premiums are remitted.

45 (f) Premiums on risks or exposures that are
46 properly allocated to federal waters or international
47 waters or under the jurisdiction of a foreign

government are not taxable by this state.

(j) This section does not apply to premiums on:
(1) insurance procured by a licensed surplus lines agent from an eligible surplus lines insurer as defined by Article 1.14-2 on which premium tax is paid in accordance with Article 1.14-2; or
(2) an independently procured contract of insurance on which premium tax is paid in accordance with this chapter.

Revised Law

Sec. 226.004. TAX EXCLUSIVE. The tax imposed by this subchapter is in lieu of all other insurance taxes. (Ins. Code, Sec. 101.251(h).)

Source Law

(h) The tax imposed by this section is in lieu of all other insurance taxes.

Revised Law

Sec. 226.005. TAX PAYMENT; DUE DATE. (a) The tax imposed by this subchapter is due and payable not later than:

(1) March 1 after the end of the calendar year in which the insurance was effectuated, continued, or renewed; or

(2) another date prescribed by the comptroller.

(b) An unauthorized insurer shall pay the tax imposed by this subchapter using a form prescribed by the comptroller.

(c) If an unauthorized insurer defaults in payment of the tax imposed by this subchapter, the insured is responsible for paying the tax. (Ins. Code, Secs. 101.251(b) (part), (g), (i).)

Source Law

(b) . . . an unauthorized insurer shall pay to the comptroller, on a form prescribed by the comptroller, a premium receipts tax

(g) The unauthorized insurer shall pay the premium receipts tax required by this section before:

(1) March 1 following the calendar year in which the insurance was effectuated, continued, or renewed; or

(2) another date specified by the comptroller.

(i) On default of an unauthorized insurer in the payment of the tax, the insured shall pay the tax.

Revisor's Note

Section 101.251(b), Insurance Code, requires an unauthorized insurer to pay a premium receipts tax "to

1 the comptroller." The revised law omits the reference
2 to the comptroller as unnecessary. Section (a),
3 V.T.I.C. Article 1.04D, revised in this code in
4 Section 201.051(a), requires the comptroller to
5 collect taxes imposed under this code.

6 [Sections 226.006-226.050 reserved for expansion]

7 SUBCHAPTER B. INDEPENDENTLY PROCURED INSURANCE PREMIUM TAX

8 Revised Law

9 Sec. 226.051. DEFINITION. In this subchapter, "premium"
10 includes any consideration for insurance, including:

- 11 (1) a premium;
12 (2) a membership fee; or
13 (3) dues. (Ins. Code, Sec. 101.252(a).)

14 Source Law

15 Sec. 101.252. INDEPENDENTLY PROCURED INSURANCE
16 TAX. (a) In this section, "premium" includes any
17 consideration for insurance, including:

- 18 (1) a premium;
19 (2) a membership fee; or
20 (3) dues.

21 Revised Law

22 Sec. 226.052. APPLICABILITY OF SUBCHAPTER. This
23 subchapter applies to an insured who procures an insurance contract
24 in accordance with Section 101.053(b)(4). (Ins. Code, Sec.
25 101.252(b) (part).)

26 Source Law

27 (b) . . . an insured who procures insurance in
28 accordance with Section 101.053(b)(4), . . . [shall
29 . . . pay an independently procured insurance tax of
30 4.85 percent].

31 Revised Law

32 Sec. 226.053. TAX IMPOSED; RATE. (a) A tax is imposed on
33 each insured at the rate of 4.85 percent of the premium paid for the
34 insurance contract procured in accordance with Section
35 101.053(b)(4).

36 (b) If an insurance contract covers risks or exposures only
37 partially located in this state, the tax is computed on the portion
38 of the premium that is properly allocated to a risk or exposure

1 located in this state.

2 (c) Premiums for individual life or individual disability
3 insurance are not included in determining an insured's taxable
4 premiums. (Ins. Code, Secs. 101.252(b) (part), (c), (g).)

5 Source Law

6 (b) Except as provided by Subsection (g), an
7 insured who procures insurance in accordance with
8 Section 101.053(b)(4), . . . shall:

9 (2) pay an independently procured
10 insurance tax of 4.85 percent.

11 (c) If a policy covers risks or exposures only
12 partially located in this state, the tax payable is
13 computed on the portion of the premium that is properly
14 allocated to a risk or exposure located in this state.
15

16 (g) This section does not apply to premiums for
17 individual life or individual disability insurance.

18 Revisor's Note

19 Section 101.252(c), Insurance Code, refers to an
20 insurance "policy." The revised law substitutes
21 "contract" for "policy" for consistency with the
22 terminology used in Chapter 101, Insurance Code.

23 Revised Law

24 Sec. 226.054. TAX PAYMENT BY CERTAIN INSUREDS. (a) Except
25 as provided by Section 226.055, the tax imposed by this subchapter
26 is due and payable not later than:

27 (1) May 15 after the end of the calendar year in which
28 the insurance was procured, continued, or renewed; or

29 (2) another date prescribed by the comptroller.

30 (b) An insured who fails to withhold from the premium the
31 amount of tax imposed by this subchapter is liable for the amount of
32 the tax and shall pay the tax due.

33 (c) The insured shall file a tax report and pay the tax.

34 (d) The insured may designate another person to file the
35 report and pay the tax. (Ins. Code, Secs. 101.252(b) (part), (d),
36 (e).)

37 Source Law

38 (b) . . . an insured . . . or another person
39 designated by the insured, shall:

40 (1) file a report with the comptroller;

1 and
2 (2) pay an independently procured
3 insurance tax

4 (d) An insured who fails to withhold from the
5 premium the amount of tax imposed under this section is
6 liable for the amount of the tax and shall pay the tax
7 to the comptroller within the time described by
8 Subsection (e).

9 (e) Except as provided by Section 101.253, the
10 report and tax are due on or before:

11 (1) May 15 following the calendar year in
12 which the insurance was procured, continued, or
13 renewed; or

14 (2) another date specified by the
15 comptroller.

16 Revised Law

17 Sec. 226.055. TAX PAYMENT BY CERTAIN CORPORATIONS. The
18 amount of tax due and payable under this subchapter by a corporation
19 that files a franchise tax report shall be reported directly to the
20 comptroller and is due:

21 (1) at the time the franchise tax report is due; or

22 (2) on another date prescribed by the comptroller.

23 (Ins. Code, Sec. 101.253.)

24 Source Law

25 Sec. 101.253. FILING REQUIREMENTS FOR
26 CORPORATIONS. The amount of tax due and payable under
27 Section 101.252 with respect to a corporation that
28 files a franchise tax return shall be reported
29 directly to the comptroller and is due:

30 (1) at the time the franchise tax report is
31 due; or

32 (2) on another date specified by the
33 comptroller.

34 Revised Law

35 Sec. 226.056. EFFECT ON OTHER LAW. Sections
36 226.051-226.054 do not abrogate or modify any other provision of
37 this chapter or Chapter 101. (Ins. Code, Sec. 101.252(f).)

38 Source Law

39 (f) This section does not abrogate or modify any
40 other provision of this chapter.

41 CHAPTER 227. DISPOSITION OF PROCEEDS
42 OF CERTAIN PREMIUM TAXES

43 Sec. 227.001. DISPOSITION OF TAX PROCEEDS 89

44 CHAPTER 227. DISPOSITION OF PROCEEDS
45 OF CERTAIN PREMIUM TAXES

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(b) An amount equal to one-fourth of the proceeds deposited under Subsection (a) shall be transferred to the credit of the foundation school fund. (V.T.I.C. Art. 4.12.)

Art. 4.12. Receipts from the taxes imposed by Articles 4.10, 4.11, and 4.11B and Sections 11 and 12 of Article 1.14-1 of this code shall be deposited in the general revenue fund. An amount equal to one-fourth (1/4) of this revenue shall be transferred to the foundation school fund, and an amount equal to three-fourths (3/4) of this revenue shall be credited to the general revenue fund.

SUBTITLE C. INSURANCE MAINTENANCE TAXES

Sec. 251.001.	DETERMINING RATE OF ASSESSMENT	89
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Revised Law

(b) In determining the rate of assessment, the commissioner shall consider the requirement to reimburse the appropriate portion of the general revenue fund under Section 201.052. (V.T.I.C. Art. 1.14-3, Secs. 8(a) (part), (b) (part); Art. 4.17, Secs. (a) (part), (c) (part); Art. 5.12, Secs. (a) (part), (c) (part); Art. 5.24, Secs. (a) (part), (c) (part); Art. 5.49, Secs. (a) (part), (c) (part); Art. 5.68, Secs. (a) (part), (d) (part); Art. 5.91, Secs. (a) (part), (c) (part); Art. 20A.33, Secs. (d) (part), (f) (part); Art. 21.07-6, Secs. 21(a) (part), (c) (part);

1 Art. 23.08A, Secs. (a) (part), (c) (part).)

2 Source Law

3 [Art. 1.14-3]

4 Sec. 8. (a) The commissioner annually shall
5 determine the rate of assessment of a maintenance
6 tax

7 (b) . . . In making an estimate under this
8 subsection, the commissioner shall take into account
9 the requirement that the general revenue fund be
10 reimbursed under Article 4.19 of this code and its
11 subsequent amendments.

12 Art. 4.17. (a) The commissioner shall annually
13 determine the rate of assessment of a maintenance
14 tax

15 (c) . . . In making an estimate under this
16 subsection, the commissioner shall take into account
17 the requirement that the general revenue fund be
18 reimbursed under Article 4.19 of this code.

19 Art. 5.12. (a) The State of Texas by and
20 through the commissioner shall annually determine the
21 rate of assessment of a maintenance tax

22 (c) . . . In making an estimate under this
23 subsection, the commissioner shall take into account
24 the requirement that the general revenue fund be
25 reimbursed under Article 4.19 of this code.

26 Art. 5.24. (a) The State of Texas by and
27 through the commissioner shall annually determine the
28 rate of assessment of a maintenance tax

29 (c) . . . In making an estimate under this
30 subsection, the board shall take into account the
31 requirement that the general revenue fund be
32 reimbursed under Article 4.19 of this code.

33 Art. 5.49. (a) The State of Texas by and
34 through the commissioner shall annually determine the
35 rate of assessment of a maintenance tax

36 (c) . . . In making an estimate under this
37 subsection, the commissioner shall take into account
38 the requirement that the general revenue fund be
39 reimbursed under Article 4.19 of this code.

40 Art. 5.68. (a) The State of Texas by and
41 through the commissioner shall annually determine the
42 rate of assessment of a maintenance tax

43 (d) . . . In making an estimate under this
44 subsection, the commissioner shall take into account
45 the requirement that the general revenue fund be
46 reimbursed under Article 4.19 of this code.

47 Art. 5.91. (a) The State of Texas by and
48 through the commissioner shall annually determine the
49 rate of assessment of a maintenance tax

50 (c) . . . In making an estimate under this
51 subsection, the commissioner shall take into account
52 the requirement that the general revenue fund be
53 reimbursed under Article 4.19 of this code.

1 [Art. 20A.33]

2 (d) The commissioner shall annually determine
3 the rate of assessment of a . . . maintenance
4 tax

5 (f) . . . In making an estimate under this
6 subsection, the commissioner shall take into account
7 the requirement that the general revenue fund be
8 reimbursed under Article 4.19, Insurance Code.

9 [Art. 21.07-6]

10 Sec. 21. (a) The commissioner annually shall
11 determine the rate of assessment of a maintenance
12 tax

13 (c) . . . In making an estimate under this
14 subsection, the commissioner shall take into account
15 the requirement that the general revenue fund be
16 reimbursed under Article 4.19 of this code.

17 Art. 23.08A. (a) The State of Texas by and
18 through the commissioner shall annually determine the
19 rate of assessment of a maintenance tax

20 (c) . . . In making an estimate under this
21 subsection, the commissioner shall take into account
22 the requirement that the general revenue fund be
23 reimbursed under Article 4.19 of this code.

24 Revisor's Note

25 (1) Section 8(b), V.T.I.C. Article 1.14-3,
26 Section (c), V.T.I.C. Article 4.17, Section (c),
27 V.T.I.C. Article 5.12, Section (c), V.T.I.C. Article
28 5.24, Section (c), V.T.I.C. Article 5.49, Section (d),
29 V.T.I.C. Article 5.68, Section (c), V.T.I.C. Article
30 5.91, Section (f), V.T.I.C. Article 20A.33, Section
31 21(c), V.T.I.C. Article 21.07-6, and Section (c),
32 V.T.I.C. Article 23.08A, refer to reimbursement of
33 "the general revenue fund" under V.T.I.C. Article
34 4.19, revised as Section 201.052 of this code. The
35 revised law substitutes a reference to "the
36 appropriate portion of the general revenue fund" for
37 the quoted language for the reason stated in the
38 revisor's note to Section 201.052.

39 (2) Section 8(b), V.T.I.C. Article 1.14-3,
40 refers to Article 4.19 "and its subsequent
41 amendments." The revised law omits the quoted
42 language because under Section 311.027, Government

Code (Code Construction Act), applicable to the revised law, unless expressly provided otherwise, a reference to a statute applies to all reenactments, revisions, or amendments of the statute.

(3) Section (c), V.T.I.C. Article 5.24, refers to the "board," meaning the State Board of Insurance. Chapter 685, Acts of the 73rd Legislature, Regular Session, 1993, abolished the State Board of Insurance and transferred its functions to the commissioner of insurance and the Texas Department of Insurance, as appropriate. It is clear from Article 5.24 and other maintenance tax laws that it is the duty of the commissioner to annually determine the rate of assessment of each maintenance tax. The revised law therefore substitutes "commissioner" for "board."

Revised Law

Sec. 251.002. DUTY TO ADVISE COMPTROLLER OF RATE. The commissioner shall advise the comptroller of the applicable rate of assessment of a maintenance tax not later than the 45th day before the due date of the tax report for the period for which that tax is due. (V.T.I.C. Art. 1.14-3, Sec. 8(d) (part); Art. 4.17, Sec. (g) (part); Art. 5.12, Sec. (f) (part); Art. 5.24, Sec. (f) (part); Art. 5.49, Sec. (f) (part); Art. 5.68, Sec. (g) (part); Art. 5.91, Sec. (f) (part); Art. 20A.33, Sec. (i) (part); Art. 21.07-6, Sec. 21(e) (part); Art. 23.08A, Sec. (g) (part).)

Source Law

[Art. 1.14-3]
[Sec. 8]
(d) The commissioner shall advise the comptroller of the applicable rate of assessment no later than the date 45 days prior to the due date of the tax return for the period for which such taxes are due. . . .

[Art. 4.17]
(g) The commissioner shall advise the comptroller of the applicable rate of assessment no later than the date 45 days prior to the due date of the tax return for the period for which such taxes are due. . . .

1 [Art. 5.12]

2 (f) The commissioner shall advise the
3 comptroller of the applicable rate of assessment no
4 later than the date 45 days prior to the due date of the
5 tax return for the period for which such taxes are
6 due. . . .

7 [Art. 5.24]

8 (f) The commissioner shall advise the
9 comptroller of the applicable rate of assessment no
10 later than the date 45 days prior to the due date of the
11 tax return for the period for which such taxes are
12 due. . . .

13 [Art. 5.49]

14 (f) The commissioner shall advise the
15 comptroller of the applicable rate of assessment no
16 later than the date 45 days prior to the due date of the
17 tax return for the period for which such taxes are
18 due. . . .

19 [Art. 5.68]

20 (g) The commissioner shall advise the
21 comptroller of the applicable rate of assessment no
22 later than the date 45 days prior to the due date of the
23 tax return for the period for which such taxes are
24 due. . . .

25 [Art. 5.91]

26 (f) The commissioner shall advise the
27 comptroller of the applicable rate of assessment no
28 later than the date 45 days prior to the due date of the
29 tax return for the period for which such taxes are
30 due. . . .

31 [Art. 20A.33]

32 (i) The commissioner shall advise the
33 comptroller of the applicable rate of assessment no
34 later than the date 45 days prior to the due date of the
35 tax return for the period for which such taxes are
36 due. . . .

37 [Art. 21.07-6]

38 [Sec. 21]

39 (e) The commissioner shall advise the
40 comptroller of the applicable rate of assessment no
41 later than the date 45 days prior to the due date of the
42 tax return for the period for which such taxes are
43 due. . . .

44 [Art. 23.08A]

45 (g) The commissioner shall advise the
46 comptroller of the applicable rate of assessment no
47 later than the date 45 days prior to the due date of the
48 tax return for the period for which such taxes are
49 due. . . .

50 Revisor's Note

51 Section 8(d), V.T.I.C. Article 1.14-3, Section
52 (g), V.T.I.C. Article 4.17, Section (f), V.T.I.C.
53 Article 5.12, Section (f), V.T.I.C. Article 5.24,
54 Section (f), V.T.I.C. Article 5.49, Section (g),
55 V.T.I.C. Article 5.68, Section (f), V.T.I.C. Article

1 5.91, Section (i), V.T.I.C. Article 20A.33, Section
2 21(e), V.T.I.C. Article 21.07-6, and Section (g),
3 V.T.I.C. Article 23.08A, refer to the "tax return."
4 The revised law substitutes "tax report" for "tax
5 return" because, in the context of tax law, a "tax
6 return" is synonymous with a "tax report" and the
7 latter is more commonly used.

8 Revised Law

9 Sec. 251.003. EFFECT OF LATE ADVISEMENT OF RATE. (a)
10 Except as provided by Subsection (b), if the commissioner does not
11 advise the comptroller of the applicable rate of assessment of a
12 maintenance tax by the date required by Section 251.002, the rate of
13 assessment is the rate applied in the previous tax period.

14 (b) If the commissioner advises the comptroller of the
15 applicable rate of assessment of a maintenance tax after the tax has
16 been assessed, the comptroller shall:

17 (1) advise each taxpayer in writing of the amount of
18 any additional taxes due; or

19 (2) refund any excess taxes paid. (V.T.I.C.
20 Art. 1.14-3, Sec. 8(d) (part); Art. 4.17, Sec. (g) (part);
21 Art. 5.12, Sec. (f) (part); Art. 5.24, Sec. (f) (part); Art. 5.49,
22 Sec. (f) (part); Art. 5.68, Sec. (g) (part); Art. 5.91, Sec. (f)
23 (part); Art. 20A.33, Sec. (i) (part); Art. 21.07-6, Sec. 21(e)
24 (part); Art. 23.08A, Sec. (g) (part).)

25 Source Law

26 [Art. 1.14-3]

27 [Sec. 8]

28 (d) . . . If the commissioner has not advised
29 the comptroller of the applicable rate by such date,
30 the applicable rate shall be the rate applied in the
31 previous tax period. If the commissioner advises the
32 comptroller of the applicable rate of assessment after
33 taxes have been assessed pursuant to this subsection,
34 the comptroller shall:

35 (1) advise each taxpayer in writing of the
36 amount of any additional taxes due; or

37 (2) refund any excess taxes paid.

38 [Art. 4.17]

39 (g) . . . If the commissioner has not advised
40 the comptroller of the applicable rate by such date,
41 the applicable rate shall be the rate applied in the

1 previous tax period. If the commissioner advises the
2 comptroller of the applicable rate of assessment after
3 taxes have been assessed pursuant to this subsection,
4 the comptroller shall:

5 (1) advise each taxpayer in writing of the
6 amount of any additional taxes due; or

7 (2) refund any excess taxes paid.

8 [Art. 5.12]

9 (f) . . . If the commissioner has not advised
10 the comptroller of the applicable rate by such date,
11 the applicable rate shall be the rate applied in the
12 previous tax period. If the commissioner advises the
13 comptroller of the applicable rate of assessment after
14 taxes have been assessed pursuant to this subsection,
15 the comptroller shall:

16 (1) advise each taxpayer in writing of the
17 amount of any additional taxes due; or

18 (2) refund any excess taxes paid.

19 [Art. 5.24]

20 (f) . . . If the commissioner has not advised
21 the comptroller of the applicable rate by such date,
22 the applicable rate shall be the rate applied in the
23 previous tax period. If the commissioner advises the
24 comptroller of the applicable rate of assessment after
25 taxes have been assessed pursuant to this subsection,
26 the comptroller shall:

27 (1) advise each taxpayer in writing of the
28 amount of any additional taxes due; or

29 (2) refund any excess taxes paid.

30 [Art. 5.49]

31 (f) . . . If the commissioner has not advised
32 the comptroller of the applicable rate by such date,
33 the applicable rate shall be the rate applied in the
34 previous tax period. If the commissioner advises the
35 comptroller of the applicable rate of assessment after
36 taxes have been assessed pursuant to this subsection,
37 the comptroller shall:

38 (1) advise each taxpayer in writing of the
39 amount of any additional taxes due; or

40 (2) refund any excess taxes paid.

41 [Art. 5.68]

42 (g) . . . If the commissioner has not advised
43 the comptroller of the applicable rate by such date,
44 the applicable rate shall be the rate applied in the
45 previous tax period. If the commissioner advises the
46 comptroller of the applicable rate of assessment after
47 taxes have been assessed pursuant to this subsection,
48 the comptroller shall:

49 (1) advise each taxpayer in writing of the
50 amount of any additional taxes due; or

51 (2) refund any excess taxes paid.

52 [Art. 5.91]

53 (f) . . . If the commissioner has not advised
54 the comptroller of the applicable rate by such date,
55 the applicable rate shall be the rate applied in the
56 previous tax period. If the commissioner advises the
57 comptroller of the applicable rate of assessment after
58 taxes have been assessed pursuant to this subsection,
59 the comptroller shall:

60 (1) advise each taxpayer in writing of the
61 amount of any additional taxes due; or

62 (2) refund any excess taxes paid.

1 [Art. 20A.33]

2 (i) . . . If the commissioner has not advised
3 the comptroller of the applicable rate by such date,
4 the applicable rate shall be the rate applied in the
5 previous tax period. If the commissioner advises the
6 comptroller of the applicable rate of assessment after
7 taxes have been assessed pursuant to this subsection,
8 the comptroller shall:

9 (1) advise each taxpayer in writing of the
10 amount of any additional taxes due; or

11 (2) refund any excess taxes paid.

12 [Art. 21.07-6]

13 [Sec. 21]

14 (e) . . . If the commissioner has not advised
15 the comptroller of the applicable rate by such date,
16 the applicable rate shall be the rate applied in the
17 previous tax period. If the commissioner advises the
18 comptroller of the applicable rate of assessment after
19 taxes have been assessed pursuant to this subsection,
20 the comptroller shall:

21 (1) advise each taxpayer in writing of the
22 amount of any additional taxes due; or

23 (2) refund any excess taxes paid.

24 [Art. 23.08A]

25 (g) . . . If the commissioner has not advised
26 the comptroller of the applicable rate by such date,
27 the applicable rate shall be the rate applied in the
28 previous tax period. If the commissioner advises the
29 comptroller of the applicable rate of assessment after
30 taxes have been assessed pursuant to this subsection,
31 the comptroller shall:

32 (1) advise each taxpayer in writing of the
33 amount of any additional taxes due; or

34 (2) refund any excess taxes paid.

35 Revised Law

36 Sec. 251.004. DEPOSIT OF MAINTENANCE TAXES. Maintenance
37 taxes collected under this subtitle shall be deposited in the
38 general revenue fund and reallocated to the Texas Department of
39 Insurance operating account. (V.T.I.C. Art. 1.14-3, Sec. 8(c)
40 (part); Art. 4.17, Sec. (d) (part); Art. 5.12, Sec. (d) (part);
41 Art. 5.24, Sec. (d) (part); Art. 5.49, Sec. (d) (part); Art. 5.68,
42 Sec. (e) (part); Art. 5.91, Sec. (d) (part); Art. 20A.33, Sec. (g)
43 (part); Art. 21.07-6, Sec. 21(d) (part); Art. 23.08A, Sec. (d)
44 (part).)

45 Source Law

46 [Art. 1.14-3]

47 [Sec. 8]

48 (c) The collected taxes shall be deposited in
49 the State Treasury to the credit of the general revenue
50 fund to be reallocated to the Texas Department of
51 Insurance operating fund and

52 [Art. 4.17]

53 (d) The taxes collected shall be deposited in

1 the state treasury to the credit of the general revenue
2 fund to be reallocated to the Texas Department of
3 Insurance operating fund and

4 [Art. 5.12]

5 (d) The taxes collected shall be deposited in
6 the State Treasury to the credit of the general revenue
7 fund to be reallocated to the Texas Department of
8 Insurance operating fund and

9 [Art. 5.24]

10 (d) The taxes collected shall be deposited in
11 the State Treasury to the credit of the general revenue
12 fund to be reallocated to the Texas Department of
13 Insurance operating fund and

14 [Art. 5.49]

15 (d) The taxes collected shall be deposited in
16 the State Treasury to the credit of the general revenue
17 fund to be reallocated to the Texas Department of
18 Insurance operating fund and

19 [Art. 5.68]

20 (e) The taxes collected shall be deposited in
21 the State Treasury to the credit of the general revenue
22 fund to be reallocated to the Texas Department of
23 Insurance operating fund and

24 [Art. 5.91]

25 (d) The taxes collected shall be deposited in
26 the State Treasury to the credit of the general revenue
27 fund to be reallocated to the Texas Department of
28 Insurance operating fund and

29 [Art. 20A.33]

30 (g) The taxes collected shall be deposited in
31 the State Treasury to the credit of the general revenue
32 fund to be reallocated to the Texas Department of
33 Insurance operating fund and

34 [Art. 21.07-6]

35 [Sec. 21]

36 (d) The taxes collected under this section shall
37 be deposited in the state treasury to the credit of the
38 general revenue fund to be reallocated to the Texas
39 Department of Insurance operating fund and

40 [Art. 23.08A]

41 (d) The taxes collected shall be deposited in
42 the State Treasury to the credit of the general revenue
43 fund to be reallocated to the Texas Department of
44 Insurance operating fund and

45 Revisor's Note

46 (1) Section 8(c), V.T.I.C. Article 1.14-3,
47 Section (d), V.T.I.C. Article 4.17, Section (d),
48 V.T.I.C. Article 5.12, Section (d), V.T.I.C. Article
49 5.24, Section (d), V.T.I.C. Article 5.49, Section (e),
50 V.T.I.C. Article 5.68, Section (d), V.T.I.C. Article
51 5.91, Section (g), V.T.I.C. Article 20A.33, Section
52 21(d), V.T.I.C. Article 21.07-6, and Section (d),

1 V.T.I.C. Article 23.08A, state that collected taxes
2 shall be deposited in the state treasury to the credit
3 of the general revenue fund to be reallocated to the
4 Texas Department of Insurance operating fund. Under
5 the authority of Chapter 4, Acts of the 72nd
6 Legislature, 1st Called Session, 1991, that fund was
7 converted to an account in the general revenue fund.
8 The revised law is drafted accordingly.

9 (2) Section 8(c), V.T.I.C. Article 1.14-3,
10 Section (d), V.T.I.C. Article 4.17, Section (d),
11 V.T.I.C. Article 5.12, Section (d), V.T.I.C. Article
12 5.24, Section (d), V.T.I.C. Article 5.49, Section (e),
13 V.T.I.C. Article 5.68, Section (d), V.T.I.C. Article
14 5.91, Section (g), V.T.I.C. Article 20A.33, Section
15 21(d), V.T.I.C. Article 21.07-6, and Section (d),
16 V.T.I.C. Article 23.08A, require money allocated to
17 the Texas Department of Insurance operating account to
18 be spent as authorized by legislative appropriation on
19 warrants issued by the comptroller pursuant to duly
20 certified requisitions of the commissioner of
21 insurance. The revised law omits that part of each
22 provision relating to the expenditure of money as
23 authorized by legislative appropriation as
24 unnecessary because Section 6, Article VIII, Texas
25 Constitution, provides that "[n]o money shall be drawn
26 from the Treasury but in pursuance of specific
27 appropriations made by law." The revised law also
28 omits that part of each provision relating to warrants
29 issued by the comptroller pursuant to certified
30 requisitions of the commissioner because it is
31 substantively duplicative of provisions contained in
32 Chapter 2103, Government Code, which is a
33 comprehensive law covering procedures for withdrawing
34 money from the state treasury. The omitted law reads:

1 [Art. 1.14-3]
2 [Sec. 8]
3 (c) [The collected taxes shall be
4 deposited . . . to the credit of . . . the
5 Texas Department of Insurance operating
6 fund and] shall be spent as authorized by
7 legislative appropriation on warrants
8 issued by the comptroller pursuant to duly
9 certified requisitions of the
10 commissioner. . . .

11 [Art. 4.17]
12 (d) [The taxes collected shall be
13 deposited . . . to the credit of . . . the
14 Texas Department of Insurance operating
15 fund and] shall be spent as authorized by
16 legislative appropriation on warrants
17 issued by the comptroller pursuant to duly
18 certified requisitions of the
19 commissioner. . . .

20 [Art. 5.12]
21 (d) [The taxes collected shall be
22 deposited . . . to the credit of . . . the
23 Texas Department of Insurance operating
24 fund and] shall be spent as authorized by
25 legislative appropriation only on warrants
26 issued by the comptroller pursuant to duly
27 certified requisitions of the
28 commissioner. . . .

29 [Art. 5.24]
30 (d) [The taxes collected shall be
31 deposited . . . to the credit of . . . the
32 Texas Department of Insurance operating
33 fund and] shall be spent as authorized by
34 legislative appropriation on warrants
35 issued by the comptroller pursuant to duly
36 certified requisitions of the
37 commissioner. . . .

38 [Art. 5.49]
39 (d) [The taxes collected shall be
40 deposited . . . to the credit of . . . the
41 Texas Department of Insurance operating
42 fund and] shall be spent as authorized by
43 legislative appropriation on warrants
44 issued by the comptroller pursuant to duly
45 certified requisitions of the
46 commissioner. . . .

47 [Art. 5.68]
48 (e) [The taxes collected shall be
49 deposited . . . to the credit of . . . the
50 Texas Department of Insurance operating
51 fund and] shall be spent as authorized by
52 legislative appropriation on warrants
53 issued by the comptroller pursuant to duly
54 certified requisitions of the
55 commissioner. . . .

56 [Art. 5.91]
57 (d) [The taxes collected shall be
58 deposited . . . to the credit of . . . the
59 Texas Department of Insurance operating
60 fund and] shall be spent as authorized by
61 legislative appropriation on warrants

1 issued by the comptroller pursuant to duly
2 certified requisitions of the
3 commissioner. . . .

4 [Art. 20A.33]

5 (g) [The taxes collected shall be
6 deposited . . . to the credit of . . . the
7 Texas Department of Insurance operating
8 fund and] shall be spent as authorized by
9 legislative appropriation on warrants
10 issued by the comptroller pursuant to duly
11 certified requisitions of the
12 commissioner. . . .

13 [Art. 21.07-6]

14 [Sec. 21]

15 (d) [The taxes collected under this
16 section shall be deposited . . . to the
17 credit of . . . the Texas Department of
18 Insurance operating fund and] shall be
19 spent as authorized by legislative
20 appropriation on warrants issued by the
21 comptroller pursuant to duly certified
22 requisitions of the commissioner. . . .

23 [Art. 23.08A]

24 (d) [The taxes collected shall be
25 deposited . . . to the credit of . . . the
26 Texas Department of Insurance operating
27 fund and] shall be spent as authorized by
28 legislative appropriation on warrants
29 issued by the comptroller pursuant to duly
30 certified requisitions of the
31 commissioner. . . .

32 (3) Section 8(c), V.T.I.C. Article 1.14-3,
33 Section (d), V.T.I.C. Article 4.17, Section (d),
34 V.T.I.C. Article 5.12, Section (d), V.T.I.C. Article
35 5.24, Section (d), V.T.I.C. Article 5.49, Section (e),
36 V.T.I.C. Article 5.68, Section (d), V.T.I.C. Article
37 5.91, Section (g), V.T.I.C. Article 20A.33, Section
38 21(d), V.T.I.C. Article 21.07-6, and Section (d),
39 V.T.I.C. Article 23.08A, authorize the transfer of
40 money in the Texas Department of Insurance operating
41 account to the general revenue fund in accordance with
42 V.T.I.C. Article 4.19. The revised law omits these
43 provisions as unnecessary because Article 4.19,
44 revised as Section 201.052 of this code, provides
45 sufficient authority for the transfer of that money.

46 The omitted law reads:

47 [Art. 1.14-3]

48 [Sec. 8]

49 (c) . . . Amounts reallocated to

1 the Texas Department of Insurance operating
2 fund under this subsection may be
3 transferred to the general revenue fund in
4 accordance with Article 4.19 of this code
5 and its subsequent amendments.

6 [Art. 4.17]

7 (d) . . . Amounts reallocated to
8 the Texas Department of Insurance operating
9 fund under this subsection may be
10 transferred to the general revenue fund in
11 accordance with Article 4.19 of this code.

12 [Art. 5.12]

13 (d) . . . Amounts reallocated to
14 the Texas Department of Insurance operating
15 fund under this subsection may be
16 transferred to the general revenue fund in
17 accordance with Article 4.19 of this code.

18 [Art. 5.24]

19 (d) . . . Amounts reallocated to
20 the Texas Department of Insurance operating
21 fund under this subsection may be
22 transferred to the general revenue fund in
23 accordance with Article 4.19 of this code.

24 [Art. 5.49]

25 (d) . . . Amounts reallocated to
26 the Texas Department of Insurance operating
27 fund under this subsection may be
28 transferred to the general revenue fund in
29 accordance with Article 4.19 of this code.

30 [Art. 5.68]

31 (e) . . . Amounts reallocated to
32 the Texas Department of Insurance operating
33 fund under this subsection may be
34 transferred to the general revenue fund in
35 accordance with Article 4.19 of this code.

36 [Art. 5.91]

37 (d) . . . Amounts reallocated to
38 the Texas Department of Insurance operating
39 fund under this subsection may be
40 transferred to the general revenue fund in
41 accordance with Article 4.19 of this code.

42 [Art. 20A.33]

43 (g) . . . Amounts reallocated to
44 the Texas Department of Insurance operating
45 fund under this subsection may be
46 transferred to the general revenue fund in
47 accordance with Article 4.19, Insurance
48 Code.

49 [Art. 21.07-6]

50 [Sec. 21]

51 (d) . . . Amounts reallocated to
52 the Texas Department of Insurance operating
53 fund under this subsection may be
54 transferred to the general revenue fund in
55 accordance with Article 4.19 of this code.

56 [Art. 23.08A]

57 (d) . . . Amounts reallocated to
58 the Texas Department of Insurance operating
59 fund under this subsection may be

transferred to the general revenue fund in
accordance with Article 4.19 of this code.

Revisor's Note
(End of Chapter)

Section 8(a), V.T.I.C. Article 1.14-3, Section
(a), V.T.I.C. Article 4.17, Section (a), V.T.I.C.
Article 5.12, Section (a), V.T.I.C. Article 5.24,
Section (a), V.T.I.C. Article 5.49, Section (a),
V.T.I.C. Article 5.68, Section (a), V.T.I.C. Article
5.91, Section (d), V.T.I.C. Article 20A.33, Section
21(a), V.T.I.C. Article 21.07-6, and Section (a),
V.T.I.C. Article 23.08A, state that the comptroller
shall collect the maintenance tax. The revised law
omits these provisions as unnecessary because V.T.I.C.
Article 1.04D, revised in relevant part as Section
201.051(a) of this code, provides that the comptroller
shall collect the taxes. The omitted law reads:

[Art. 1.14-3]

Sec. 8. (a) . . . The comptroller
shall collect the maintenance tax.

Art. 4.17. (a) . . . The
comptroller shall collect the maintenance
tax. . . .

Art. 5.12. (a) . . . The
comptroller shall collect the maintenance
tax.

Art. 5.24. (a) . . . The
comptroller shall collect the maintenance
tax.

Art. 5.49. (a) . . . The
comptroller shall collect the maintenance
tax.

Art. 5.68. (a) . . . The
comptroller shall collect the maintenance
tax. . . .

Art. 5.91. (a) . . . The
comptroller shall collect the maintenance
tax.

[Art. 20A.33]

(d) . . . The comptroller shall
collect the maintenance tax. . . .

[Art. 21.07-6]

Sec. 21. (a) . . . The comptroller
shall collect the maintenance tax.

1 Art. 23.08A. (a) . . . The
2 comptroller shall collect the maintenance
3 tax.

4 CHAPTER 252. FIRE AND ALLIED LINES INSURANCE

5 Sec. 252.001. MAINTENANCE TAX IMPOSED 103
6 Sec. 252.002. MAXIMUM RATE; ANNUAL ADJUSTMENT. 103
7 Sec. 252.003. PREMIUMS SUBJECT TO TAXATION 104
8 Sec. 252.004. MAINTENANCE TAX DUE DATES 105

9 CHAPTER 252. FIRE AND ALLIED LINES INSURANCE

10 Revised Law

11 Sec. 252.001. MAINTENANCE TAX IMPOSED. A maintenance tax
12 is imposed on each authorized insurer with gross premiums subject
13 to taxation under Section 252.003. The tax required by this chapter
14 is in addition to other taxes imposed that are not in conflict with
15 this chapter. (V.T.I.C. Art. 5.49, Secs. (a) (part), (b).)

16 Source Law

17 (a) . . . [a maintenance tax] to be paid
18 on . . . gross premiums . . . [collected] by all
19 authorized insurers [writing those types of
20 insurance]
21 (b) The tax required by this article is in
22 addition to all other taxes now imposed or that may be
23 subsequently imposed and that are not in conflict with
24 this article.

25 Revised Law

26 Sec. 252.002. MAXIMUM RATE; ANNUAL ADJUSTMENT. (a) The
27 rate of assessment set by the commissioner may not exceed 1.25
28 percent of the gross premiums subject to taxation under Section
29 252.003.

30 (b) The commissioner shall annually adjust the rate of
31 assessment of the maintenance tax so that the tax imposed that year,
32 together with any unexpended funds produced by the tax, produces
33 the amount the commissioner determines is necessary to pay the
34 expenses during the succeeding year of regulating all classes of
35 insurance specified under Subchapter C, Chapter 5. (V.T.I.C.
36 Art. 5.49, Secs. (a) (part), (c) (part).)

37 Source Law

38 (a) . . . The rate of assessment may not exceed
39 one and one-fourth percent of the . . . [gross
40 premiums]

1 (c) The commissioner, after taking into account
2 the unexpended funds produced by this tax, if any,
3 shall adjust the rate of assessment each year to
4 produce the amount of funds that it estimates will be
5 necessary to pay all the expenses of regulating all
6 classes of insurance specified by this subchapter
7 during the succeeding year. . . .

8 Revised Law

9 Sec. 252.003. PREMIUMS SUBJECT TO TAXATION. An insurer
10 shall pay maintenance taxes under this chapter on the correctly
11 reported gross premiums collected from writing insurance in this
12 state against loss or damage by:

- 13 (1) bombardment;
- 14 (2) civil war or commotion;
- 15 (3) cyclone;
- 16 (4) earthquake;
- 17 (5) excess or deficiency of moisture;
- 18 (6) explosion as defined by Article 5.52;
- 19 (7) fire;
- 20 (8) flood;
- 21 (9) frost and freeze;
- 22 (10) hail;
- 23 (11) insurrection;
- 24 (12) invasion;
- 25 (13) lightning;
- 26 (14) military or usurped power;
- 27 (15) an order of a civil authority made to prevent the
28 spread of a conflagration, epidemic, or catastrophe;
- 29 (16) rain;
- 30 (17) riot;
- 31 (18) the rising of the waters of the ocean or its
32 tributaries;
- 33 (19) smoke or smudge;
- 34 (20) strike or lockout;
- 35 (21) tornado;
- 36 (22) vandalism or malicious mischief;
- 37 (23) volcanic eruption;

1 (24) water or other fluid or substance resulting from
2 the breakage or leakage of sprinklers, pumps, or other apparatus
3 erected for extinguishing fires, water pipes, or other conduits or
4 containers;

5 (25) weather or climatic conditions; or

6 (26) windstorm. (V.T.I.C. Art. 5.49, Sec. (a)
7 (part).)

8 Source Law

9 (a) . . . [a maintenance tax to be paid on . . .
10 the] correctly reported [gross premiums] of fire,
11 lightning, tornado, windstorm, hail, smoke or smudge,
12 cyclone, earthquake, volcanic eruption, rain, frost
13 and freeze, weather or climatic conditions, excess or
14 deficiency of moisture, flood, the rising of the
15 waters of the ocean or its tributaries, bombardment,
16 invasion, insurrection, riot, civil war or commotion,
17 military or usurped power, any order of a civil
18 authority made to prevent the spread of a
19 conflagration, epidemic, or catastrophe, vandalism or
20 malicious mischief, strike or lockout, explosion as
21 defined in Article 5.52 of this code, water or other
22 fluid or substance resulting from the breakage or
23 leakage of sprinklers, pumps, or other apparatus
24 erected for extinguishing fires, water pipes, or other
25 conduits or containers insurance coverage collected
26 [by all authorized insurers] writing those types of
27 insurance in this state. . . .

28 Revised Law

29 Sec. 252.004. MAINTENANCE TAX DUE DATES. (a) The insurer
30 shall pay the maintenance tax annually or semiannually, as
31 determined by the comptroller.

32 (b) The comptroller may require semiannual or other
33 periodic payment only from an insurer whose maintenance tax
34 liability under this chapter for the previous tax year was at least
35 \$2,000. (V.T.I.C. Art. 5.49, Secs. (a) (part), (e).)

36 Source Law

37 (a) . . . [tax to be paid on] an annual or
38 semiannual basis, as determined by the
39 comptroller. . . .

40 (e) The comptroller may elect to collect on a
41 semiannual or other periodic basis the tax assessed
42 under this article only from insurers whose tax
43 liability under this article for the previous tax year
44 was \$2,000 or more.

45 CHAPTER 253. CASUALTY INSURANCE AND FIDELITY, GUARANTY,
46 AND SURETY BOND INSURANCE

1	Sec. 253.001.	MAINTENANCE TAX IMPOSED	106
2	Sec. 253.002.	MAXIMUM RATE; ANNUAL ADJUSTMENT.	106
3	Sec. 253.003.	PREMIUMS SUBJECT TO TAXATION	107
4	Sec. 253.004.	MAINTENANCE TAX DUE DATES	107

CHAPTER 253. CASUALTY INSURANCE AND FIDELITY, GUARANTY,
AND SURETY BOND INSURANCE

Revised Law

Sec. 253.001. MAINTENANCE TAX IMPOSED. A maintenance tax is imposed on each authorized insurer with gross premiums subject to taxation under Section 253.003. The tax required by this chapter is in addition to other taxes imposed that are not in conflict with this chapter. (V.T.I.C. Art. 5.24, Secs. (a) (part), (b).)

Source Law

(a) . . . [a maintenance tax] to be paid on . . . gross premiums . . . of all authorized insurers [writing those classes of insurance]

(b) The tax required by this article is in addition to all other taxes now imposed or that may be subsequently imposed and that are not in conflict with this article.

Revised Law

Sec. 253.002. MAXIMUM RATE; ANNUAL ADJUSTMENT. (a) The rate of assessment set by the commissioner may not exceed 0.4 percent of the gross premiums subject to taxation under Section 253.003.

(b) The commissioner shall annually adjust the rate of assessment of the maintenance tax so that the tax imposed that year, together with any unexpended funds produced by the tax, produces the amount the commissioner determines is necessary to pay the expenses during the succeeding year of regulating all classes of insurance specified under Subchapter B, Chapter 5. (V.T.I.C. Art. 5.24, Secs. (a) (part), (c) (part).)

Source Law

(a) . . . The rate of assessment may not exceed two-fifths of one percent of the . . . [gross premiums]

(c) The commissioner, after taking into account the unexpended funds produced by this tax, if any, shall adjust the rate of assessment each year to

produce the amount of funds that it estimates will be necessary to pay all the expenses of regulating all classes of insurance covered by this subchapter during the succeeding year. . . .

Revised Law

Sec. 253.003. PREMIUMS SUBJECT TO TAXATION. An insurer shall pay maintenance taxes under this chapter on the correctly reported gross premiums from writing a class of insurance specified under Subchapter B, Chapter 5. (V.T.I.C. Art. 5.24, Sec. (a) (part).)

Source Law

(a) . . . [a maintenance tax to be paid on . . . the] correctly reported [gross premiums] of all classes of insurance covered by this subchapter [of all authorized insurers] writing those classes of insurance in this state. . . .

Revised Law

Sec. 253.004. MAINTENANCE TAX DUE DATES. (a) The insurer shall pay the maintenance tax annually or semiannually, as determined by the comptroller.

(b) The comptroller may require semiannual payment only from an insurer whose maintenance tax liability under this chapter for the previous tax year was at least \$2,000. (V.T.I.C. Art. 5.24, Secs. (a) (part), (e).)

Source Law

(a) . . . [tax to be paid on] an annual or semiannual basis, as determined by the comptroller. . . .

(e) The comptroller may elect to collect on a semiannual basis the tax assessed under this article only from insurers whose tax liability under this article for the previous tax year was \$2,000 or more.

CHAPTER 254. MOTOR VEHICLE INSURANCE

Sec. 254.001. MAINTENANCE TAX IMPOSED 107

Sec. 254.002. MAXIMUM RATE; ANNUAL ADJUSTMENT 108

Sec. 254.003. PREMIUMS SUBJECT TO TAXATION 108

Sec. 254.004. MAINTENANCE TAX DUE DATES 109

CHAPTER 254. MOTOR VEHICLE INSURANCE

Revised Law

Sec. 254.001. MAINTENANCE TAX IMPOSED. A maintenance tax

1 is imposed on each authorized insurer with gross premiums subject
2 to taxation under Section 254.003. The tax required by this chapter
3 is in addition to other taxes imposed that are not in conflict with
4 this chapter. (V.T.I.C. Art. 5.12, Secs. (a) (part), (b).)

5 Source Law

6 (a) . . . [a maintenance tax] to be paid on
7 . . . gross . . . premiums of all authorized insurers
8 [writing motor vehicle insurance]

9 (b) The tax required by this article is in
10 addition to all other taxes now imposed or that may be
11 subsequently imposed and that are not in conflict with
12 this article.

13 Revised Law

14 Sec. 254.002. MAXIMUM RATE; ANNUAL ADJUSTMENT. (a) The
15 rate of assessment set by the commissioner may not exceed 0.2
16 percent of the gross premiums subject to taxation under Section
17 254.003.

18 (b) The commissioner shall annually adjust the rate of
19 assessment of the maintenance tax so that the tax imposed that year,
20 together with any unexpended funds produced by the tax, produces
21 the amount the commissioner determines is necessary to pay the
22 expenses during the succeeding year of regulating motor vehicle
23 insurance. (V.T.I.C. Art. 5.12, Secs. (a) (part), (c) (part).)

24 Source Law

25 (a) . . . The rate of assessment may not exceed
26 one-fifth of one percent of the . . . [gross . . .
27 premiums]

28 (c) The commissioner, after taking into account
29 the unexpended funds produced by this tax, if any,
30 shall adjust the rate of assessment each year to
31 produce the amount of funds that it estimates will be
32 necessary to pay all the expenses of regulating motor
33 vehicle insurance during the succeeding year. . . .

34 Revised Law

35 Sec. 254.003. PREMIUMS SUBJECT TO TAXATION. An insurer
36 shall pay maintenance taxes under this chapter on the correctly
37 reported gross premiums from writing motor vehicle insurance in
38 this state. (V.T.I.C. Art. 5.12, Sec. (a) (part).)

39 Source Law

40 (a) . . . [a maintenance tax to be paid on . . .
41 the] correctly reported [gross] motor vehicle

insurance [premiums of all authorized insurers]
writing motor vehicle insurance in this state. . . .

Revised Law

Sec. 254.004. MAINTENANCE TAX DUE DATES. (a) The insurer shall pay the maintenance tax annually or semiannually, as determined by the comptroller.

(b) The comptroller may require semiannual or other periodic payment only from an insurer whose maintenance tax liability under this chapter for the previous tax year was at least \$2,000. (V.T.I.C. Art. 5.12, Secs. (a) (part), (e).)

Source Law

(a) . . . [tax to be paid on] an annual or semiannual basis, as determined by the comptroller.
. . . .

(e) The comptroller may elect to collect on a semiannual or other periodic basis the tax assessed under this article only from insurers whose tax liability under this article for the previous tax year was \$2,000 or more.

CHAPTER 255. WORKERS' COMPENSATION INSURANCE

Sec. 255.001. MAINTENANCE TAX IMPOSED 109

Sec. 255.002. MAXIMUM RATE; ANNUAL ADJUSTMENT. 110

Sec. 255.003. PREMIUMS SUBJECT TO TAXATION 110

Sec. 255.004. MAINTENANCE TAX DUE DATES 111

CHAPTER 255. WORKERS' COMPENSATION INSURANCE

Revised Law

Sec. 255.001. MAINTENANCE TAX IMPOSED. (a) A maintenance tax is imposed on each authorized insurer with gross premiums subject to taxation under Section 255.003, including a:

- (1) stock insurance company;
- (2) mutual insurance company;
- (3) reciprocal or interinsurance exchange; and
- (4) Lloyd's plan.

(b) The tax required by this chapter is in addition to other taxes imposed that are not in conflict with this chapter. (V.T.I.C. Art. 5.68, Secs. (a) (part), (c).)

Source Law

(a) . . . [a maintenance tax] . . . from each

1 stock company, mutual company, reciprocal or
2 interinsurance exchange, and Lloyd's
3 association. . . . gross . . . premiums of all
4 authorized insurers [writing workers' compensation
5 insurance]

6 (c) The tax required by this article is in
7 addition to all other taxes now imposed or that may be
8 subsequently imposed and that are not in conflict with
9 this article.

10 Revised Law

11 Sec. 255.002. MAXIMUM RATE; ANNUAL ADJUSTMENT. (a) The
12 rate of assessment set by the commissioner may not exceed 0.6
13 percent of the gross premiums subject to taxation under Section
14 255.003.

15 (b) The commissioner shall annually adjust the rate of
16 assessment of the maintenance tax so that the tax imposed that year,
17 together with any unexpended funds produced by the tax, produces
18 the amount the commissioner determines is necessary to pay the
19 expenses during the succeeding year of regulating workers'
20 compensation insurance. (V.T.I.C. Art. 5.68, Secs. (a) (part), (d)
21 (part).)

22 Source Law

23 (a) . . . The rate of assessment may not exceed
24 three-fifths of one percent of the . . . [gross . . .
25 premiums]

26 (d) The commissioner, after taking into account
27 the unexpended funds produced by this tax, if any,
28 shall adjust the rate of assessment each year to
29 produce the amount of funds that it estimates will be
30 necessary to pay all the expenses of regulating
31 workers' compensation insurance during the succeeding
32 year. . . .

33 Revised Law

34 Sec. 255.003. PREMIUMS SUBJECT TO TAXATION. (a) An
35 insurer shall pay maintenance taxes under this chapter on the
36 correctly reported gross workers' compensation insurance premiums
37 from writing workers' compensation insurance in this state,
38 including the modified annual premium of a policyholder that
39 purchases an optional deductible plan under Article 5.55C.

40 (b) The rate of assessment shall be applied to the modified
41 annual premium before application of a deductible premium credit.
42 (V.T.I.C. Art. 5.68, Secs. (a) (part), (b) (part).)

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Source Law

(a) . . . [a maintenance tax] on . . . [the] correctly reported [gross] workers' compensation insurance [premiums of all authorized insurers] writing workers' compensation insurance in this state.
(b) For purposes of this article and . . . , gross workers' compensation insurance premiums include the modified annual premium of a policyholder that purchases a deductible pursuant to Article 5.55C of this code, and the rate of assessment shall be applied to the modified annual premium prior to application of any deductible premium credit.

Revised Law

Sec. 255.004. MAINTENANCE TAX DUE DATES. (a) The insurer shall pay the maintenance tax annually or semiannually.
(b) The comptroller may require semiannual payment only from an insurer whose maintenance tax liability under this chapter for the previous tax year was at least \$2,000. (V.T.I.C. Art. 5.68, Secs. (a) (part), (f).)

Source Law

(a) . . . [tax on] an annual or semiannual basis. . . .
(f) The comptroller may elect to collect on a semiannual basis the tax assessed under this article only from insurers whose tax liability under this article for the previous tax year was \$2,000 or more.

CHAPTER 256. AIRCRAFT INSURANCE

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Sec. 256.004.	MAINTENANCE TAX DUE DATES	112

CHAPTER 256. AIRCRAFT INSURANCE

Revised Law

Sec. 256.001. MAINTENANCE TAX IMPOSED. A maintenance tax is imposed on each authorized insurer with gross premiums subject to taxation under Section 256.003. The tax required by this chapter is in addition to other taxes imposed that are not in conflict with this chapter. (V.T.I.C. Art. 5.91, Secs. (a) (part), (b).)

Source Law

(a) . . . [a maintenance tax] to be paid on . . . gross premiums . . . of all authorized insurers [writing those classes of insurance]

1 (b) The tax required by this article is in
2 addition to all other taxes now imposed or that may be
3 subsequently imposed and that are not in conflict with
4 this article.

5 Revised Law

6 Sec. 256.002. MAXIMUM RATE; ANNUAL ADJUSTMENT. (a) The
7 rate of assessment set by the commissioner may not exceed 0.4
8 percent of the gross premiums subject to taxation under Section
9 256.003.

10 (b) The commissioner shall annually adjust the rate of
11 assessment of the maintenance tax so that the tax imposed that year,
12 together with any unexpended funds produced by the tax, produces
13 the amount the commissioner determines is necessary to pay the
14 expenses during the succeeding year of regulating all classes of
15 insurance specified under Subchapter K, Chapter 5. (V.T.I.C.
16 Art. 5.91, Secs. (a) (part), (c) (part).)

17 Source Law

18 (a) . . . The rate of assessment may not exceed
19 two-fifths of one percent of the . . . [gross
20 premiums]

21 (c) The commissioner, after taking into account
22 the unexpended funds produced by this tax, if any,
23 shall adjust the rate of assessment each year to
24 produce the amount of funds that it estimates will be
25 necessary to pay all the expenses of regulating all
26 classes of insurance specified by this subchapter
27 during the succeeding year. . . .

28 Revised Law

29 Sec. 256.003. PREMIUMS SUBJECT TO TAXATION. An insurer
30 shall pay maintenance taxes under this chapter on the correctly
31 reported gross premiums from writing a class of insurance specified
32 under Subchapter K, Chapter 5. (V.T.I.C. Art. 5.91, Sec. (a)
33 (part).)

34 Source Law

35 (a) . . . [a maintenance tax to be paid on . . .
36 the] correctly reported [gross premiums] on all
37 classes of insurance covered by this subchapter [of
38 all authorized insurers] writing those classes of
39 insurance in this state. . . .

40 Revised Law

41 Sec. 256.004. MAINTENANCE TAX DUE DATES. (a) The insurer
42 shall pay the maintenance tax annually or semiannually, as

determined by the comptroller.

(b) The comptroller may require semiannual payment only from an insurer whose maintenance tax liability under this chapter for the previous tax year was at least \$2,000. (V.T.I.C. Art. 5.91, Secs. (a) (part), (e).)

Source Law

(a) . . . [tax to be paid on] an annual or semiannual basis, as determined by the comptroller. . . .

(e) The comptroller may elect to collect on a semiannual basis the tax assessed under this article only from insurers whose tax liability under this article for the previous tax year was \$2,000 or more.

CHAPTER 257. LIFE, HEALTH, AND ACCIDENT INSURANCE

Sec. 257.001. MAINTENANCE TAX IMPOSED 113

Sec. 257.002. MAXIMUM RATE; ANNUAL ADJUSTMENT. 114

Sec. 257.003. PREMIUMS AND CONSIDERATIONS SUBJECT TO
TAXATION; LIMIT. 115

Sec. 257.004. MAINTENANCE TAX DUE DATES 115

CHAPTER 257. LIFE, HEALTH, AND ACCIDENT INSURANCE

Revised Law

Sec. 257.001. MAINTENANCE TAX IMPOSED. A maintenance tax is imposed on each authorized insurer, including a group hospital service corporation, local mutual aid association, statewide mutual assessment company, stipulated premium company, and stock or mutual insurance company, that collects from residents of this state gross premiums or gross considerations subject to taxation under Section 257.003. The tax required by this chapter is in addition to other taxes imposed that are not in conflict with this chapter. (V.T.I.C. Art. 4.17, Secs. (a) (part), (b), (f).)

Source Law

(a) . . . [a maintenance tax] to be paid on . . . gross premiums . . . and the gross considerations . . . [collected] by all authorized insurers [writing life, health, and accident insurance, annuity, or endowment contracts]

(b) The tax required by this article is in addition to all other taxes now imposed or that may be subsequently imposed and that are not in conflict with this article.

1 (f) The insurers subject to the tax imposed by
2 this article include stock and mutual insurance
3 companies, local mutual aid associations, statewide
4 mutual assessment companies, group hospital service
5 plan corporations, and stipulated premium insurance
6 companies collecting those gross premiums and
7 considerations from residents of this state.

8 Revisor's Note

9 Section (f), V.T.I.C. Article 4.17, refers to
10 "group hospital service plan corporations," meaning
11 corporations operating under V.T.I.C. Chapter 20,
12 revised as Chapter 842 of this code. The term most
13 frequently used to refer to such a corporation is
14 "group hospital service corporation." Consequently,
15 the revised law substitutes "group hospital service
16 corporation" for "group hospital service plan
17 corporations" to provide for consistent use of
18 terminology in this code.

19 Revised Law

20 Sec. 257.002. MAXIMUM RATE; ANNUAL ADJUSTMENT. (a) The
21 rate of assessment set by the commissioner may not exceed 0.04
22 percent of the gross premiums and gross considerations subject to
23 taxation under Section 257.003.

24 (b) The commissioner shall annually adjust the rate of
25 assessment of the maintenance tax so that the tax imposed that year,
26 together with any unexpended funds produced by the tax, produces
27 the amount the commissioner determines is necessary to pay the
28 expenses during the succeeding year of regulating life, health, and
29 accident insurers. (V.T.I.C. Art. 4.17, Secs. (a) (part), (c)
30 (part).)

31 Source Law

32 (a) . . . The rate of assessment may not exceed
33 .04 percent of the . . . [gross premiums . . . and the
34 gross considerations]

35 (c) The commissioner, after taking into account
36 the unexpended funds produced by this tax, if any,
37 shall adjust the rate of assessment each year to
38 produce the amount of funds that it estimates will be
39 necessary to pay all the expenses of regulating life,
40 health, and accident insurers during the succeeding
41 year. . . .

Revised Law

Sec. 257.003. PREMIUMS AND CONSIDERATIONS SUBJECT TO TAXATION; LIMIT. (a) An insurer shall pay maintenance taxes under this chapter on the correctly reported:

(1) gross premiums collected from writing life, health, and accident insurance in this state, except as provided in Subsection (b); and

(2) gross considerations collected from writing annuity or endowment contracts in this state.

(b) The gross premiums on which an assessment is based under this chapter may not include premiums received from this state or the United States for insurance contracted for by this state or the United States:

(1) in accordance with or in furtherance of Title 2, Human Resources Code, or the Social Security Act (42 U.S.C. Section 301 et seq.); or

(2) to provide welfare benefits to designated welfare recipients. (V.T.I.C. Art. 4.17, Sec. (a) (part).)

Source Law

(a) . . . [a maintenance tax to be paid on . . . the] correctly reported [gross premiums] of life, health, and accident insurance coverages [and the gross considerations] for annuity and endowment contracts collected [by all authorized insurers] writing life, health, and accident insurance, annuity, or endowment contracts in this state. . . . For purposes of this article, the gross premiums on which an assessment is based may not include premiums received from this state or the United States for insurance contracted for by this state or the United States for the purpose of providing welfare benefits to designated welfare recipients or for insurance contracted for by this state or the United States in accordance with or in furtherance of Title 2, Human Resources Code, or the federal Social Security Act (42 U.S.C. Section 301 et seq.).

Revised Law

Sec. 257.004. MAINTENANCE TAX DUE DATES. (a) The insurer shall pay the maintenance tax annually, semiannually, or on another periodic basis, as determined by the comptroller.

(b) The comptroller may require semiannual or other periodic payment only from an insurer whose maintenance tax

liability under this chapter for the previous year was at least \$2,000. (V.T.I.C. Art. 4.17, Secs. (a) (part), (e).)

Source Law

(a) . . . [tax to be paid on] an annual, semiannual, or other periodic basis, as determined by the comptroller. . . .

(e) The comptroller may collect the tax assessed under this article on a semiannual or other periodic basis from those insurers whose tax liability under this article for the previous year was \$2,000 or more.

CHAPTER 258. HEALTH MAINTENANCE ORGANIZATIONS

Sec. 258.001. APPLICABILITY OF CERTAIN DEFINITIONS. 116

Sec. 258.002. MAINTENANCE TAX IMPOSED 116

Sec. 258.003. MAXIMUM RATE; ANNUAL ADJUSTMENT. 117

Sec. 258.004. REVENUES SUBJECT TO TAXATION; LIMIT 117

Sec. 258.005. MAINTENANCE TAX DUE DATES 118

CHAPTER 258. HEALTH MAINTENANCE ORGANIZATIONS

Revised Law

Sec. 258.001. APPLICABILITY OF CERTAIN DEFINITIONS. In this chapter, a term defined by Section 843.002 has the meaning assigned by that section. (V.T.I.C. Art. 20A.01B, as added Acts 77th Leg., R.S., Ch. 1419.)

Source Law

Art. 20A.01B. In this Act, terms defined by Section 843.002, Insurance Code, have the meanings assigned by that section.

Revised Law

Sec. 258.002. MAINTENANCE TAX IMPOSED. A per capita maintenance tax is imposed on each authorized health maintenance organization with gross revenues subject to taxation under Section 258.004. The tax required by this chapter is in addition to other taxes imposed that are not in conflict with this chapter. (V.T.I.C. Art. 20A.33, Secs. (d) (part), (e).)

Source Law

(d) . . . a per capita [maintenance tax] to be paid . . . on the . . . gross revenues . . . [collected] by all authorized health maintenance organizations [issuing such coverages]

(e) The tax required by this section is in addition to all other taxes now imposed or that may be

1 subsequently imposed and that are not in conflict with
2 this section.

3 Revised Law

4 Sec. 258.003. MAXIMUM RATE; ANNUAL ADJUSTMENT. (a) The
5 rate of assessment set by the commissioner may not exceed \$2 per
6 enrollee.

7 (b) The commissioner shall annually adjust the rate of
8 assessment of the per capita maintenance tax so that the tax imposed
9 that year, together with any unexpended funds produced by the tax,
10 produces the amount the commissioner determines is necessary to pay
11 the expenses during the succeeding year of regulating health
12 maintenance organizations.

13 (c) The rate of assessment may differ between basic health
14 care plans, limited health care service plans, and single health
15 care service plans and must equitably reflect any differences in
16 regulatory resources attributable to each type of plan. (V.T.I.C.
17 Art. 20A.33, Secs. (d) (part), (f) (part).)

18 Source Law

19 (d) . . . The rate of assessment may not exceed
20 \$2 for each enrollee. The rate of assessment may
21 differ between basic health care plans, limited health
22 care service plans, and single health care service
23 plans and shall equitably reflect any differences in
24 regulatory resources attributable to each type of
25 plan. . . .

26 (f) The commissioner, after taking into account
27 the unexpended funds produced by this tax, if any,
28 shall adjust the rate of assessment each year to
29 produce the amount of funds that it estimates will be
30 necessary to pay all the expenses of regulating health
31 maintenance organizations during the succeeding
32 year. . . .

33 Revised Law

34 Sec. 258.004. REVENUES SUBJECT TO TAXATION; LIMIT. (a) A
35 health maintenance organization shall pay per capita maintenance
36 taxes under this chapter on the correctly reported gross revenues
37 collected from issuing health maintenance certificates or
38 contracts in this state.

39 (b) The amount of maintenance tax assessed may not be
40 computed based on enrollees who as individual certificate holders
41 or their dependents are covered by a master group policy paid for by

revenues received from this state or the United States for insurance contracted for by this state or the United States:

(1) in accordance with or in furtherance of Title 2, Human Resources Code, or the Social Security Act (42 U.S.C. Section 301 et seq.); or

(2) to provide welfare benefits to designated welfare recipients. (V.T.I.C. Art. 20A.33, Sec. (d) (part).)

Source Law

(d) . . . [a per capita maintenance tax to be paid] on . . . [the] correctly reported [gross revenues] for the issuance of health maintenance certificates or contracts collected [by all authorized health maintenance organizations] issuing such coverages in this state. . . . For purposes of this section, the amount of maintenance tax assessed may not be computed on enrollees who as individual certificate holders or their dependents are covered by a master group policy paid for by revenues received from this state or the United States for insurance contracted for by this state or the United States for the purpose of providing welfare benefits to designated welfare recipients or for insurance contracted for by this state or the United States in accordance with or in furtherance of Title 2, Human Resources Code, or the federal Social Security Act (42 U.S.C. Section 301 et seq.).

Revised Law

Sec. 258.005. MAINTENANCE TAX DUE DATES. (a) The health maintenance organization shall pay the maintenance tax annually or semiannually.

(b) The comptroller may require semiannual or other periodic payment only from a health maintenance organization whose maintenance tax liability under this chapter for the previous year was at least \$2,000. (V.T.I.C. Art. 20A.33, Secs. (d) (part), (h).)

Source Law

(d) . . . [tax to be paid on] an annual or semiannual basis,

(h) The comptroller may collect the tax assessed under this section on a semiannual or other periodic basis from those health maintenance organizations whose tax liability under this section for the previous year was \$2,000 or more.

CHAPTER 259. THIRD-PARTY ADMINISTRATORS

Sec. 259.001. DEFINITIONS 119

1 on . . . administrative or service fees of all
2 administrators that are covered by certificates of
3 authority. . . .

4 (b) The tax required by this section is in
5 addition to all other taxes now imposed or that may be
6 subsequently imposed and that are not in conflict with
7 this section.

8 Revised Law

9 Sec. 259.003. MAXIMUM RATE; ANNUAL ADJUSTMENT. (a) The
10 rate of assessment set by the commissioner may not exceed one
11 percent of the administrative or service fees subject to taxation
12 under Section 259.004.

13 (b) The commissioner shall annually adjust the rate of
14 assessment of the maintenance tax so that the tax imposed that year,
15 together with any unexpended funds produced by the tax, produces
16 the amount the commissioner determines is necessary to pay the
17 expenses of regulating administrators. (V.T.I.C. Art. 21.07-6,
18 Secs. 21(a) (part), (c) (part).)

19 Source Law

20 (a) . . . The rate of assessment may not exceed
21 one percent of the . . . [administrative or service
22 fees]

23 (c) The commissioner, after taking into account
24 the unexpended funds produced by this tax, if any,
25 shall adjust the rate of assessment each year to
26 produce the amount of funds that it estimates will be
27 necessary to pay all the expenses of regulating
28 administrators. . . .

29 Revised Law

30 Sec. 259.004. ADMINISTRATIVE AND SERVICE FEES SUBJECT TO
31 TAXATION. An administrator shall pay maintenance taxes under this
32 chapter on the administrator's correctly reported administrative
33 or service fees. (V.T.I.C. Art. 21.07-6, Sec. 21(a) (part).)

34 Source Law

35 (a) . . . [a maintenance tax to be paid
36 on . . . the] correctly reported [administrative or
37 service fees of all administrators]

38 Revised Law

39 Sec. 259.005. MAINTENANCE TAX DUE DATES. The
40 administrator shall pay the maintenance tax annually,
41 semiannually, or on another periodic basis, as determined by the
42 comptroller. (V.T.I.C. Art. 21.07-6, Sec. 21(a) (part).)

Source Law

(a) . . . [tax to be paid on] an annual, semiannual, or other periodic basis, as determined by the comptroller. . . .

CHAPTER 260. NONPROFIT LEGAL SERVICES CORPORATIONS

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CHAPTER 260. NONPROFIT LEGAL SERVICES CORPORATIONS

Revised Law

Sec. 260.001. MAINTENANCE TAX IMPOSED. A maintenance tax is imposed on each nonprofit legal services corporation subject to Chapter 961 with gross revenues subject to taxation under Section 260.003. The tax required by this chapter is in addition to other taxes imposed that are not in conflict with this chapter. (V.T.I.C. Art. 23.08A, Secs. (a) (part), (b).)

Source Law

(a) . . . [a maintenance tax] to be paid by a nonprofit legal services corporation subject to Chapter 961 of this code on . . . gross revenues [received by all corporations issuing prepaid legal services contracts]

(b) The tax required by this article is in addition to all other taxes now imposed or that may be subsequently imposed and that are not in conflict with this article.

Revised Law

Sec. 260.002. MAXIMUM RATE; ANNUAL ADJUSTMENT. (a) The rate of assessment set by the commissioner may not exceed one percent of the corporation's gross revenues subject to taxation under Section 260.003.

(b) The commissioner shall annually adjust the rate of assessment of the maintenance tax so that the tax imposed that year, together with any unexpended funds produced by the tax, produces the amount the commissioner determines is necessary to pay the expenses during the succeeding year of regulating nonprofit legal services corporations. (V.T.I.C. Art. 23.08A, Secs. (a) (part),

1 (c) (part).)

2 Source Law

3 (a) . . . The rate of assessment may not exceed
4 one percent of the . . . [gross revenues]

5 (c) The commissioner, after taking into account
6 the unexpended funds produced by this tax, if any,
7 shall adjust the rate of assessment each year to
8 produce the amount of funds that it estimates will be
9 necessary to pay all the expenses of regulating
10 nonprofit legal services corporations during the
11 succeeding year. . . .

12 Revised Law

13 Sec. 260.003. REVENUES SUBJECT TO TAXATION. A corporation
14 shall pay maintenance taxes under this chapter on the correctly
15 reported gross revenues received from issuing prepaid legal
16 services contracts in this state. (V.T.I.C. Art. 23.08A, Sec. (a)
17 (part).)

18 Source Law

19 (a) . . . [a maintenance tax to be paid . . . on
20 . . . the] correctly reported [gross revenues]
21 received by all corporations issuing prepaid legal
22 services contracts in this state. . . .

23 Revised Law

24 Sec. 260.004. MAINTENANCE TAX DUE DATES; RULES. (a) The
25 corporation shall pay the maintenance tax annually or semiannually.

26 (b) The comptroller may require semiannual payments only
27 from a corporation whose maintenance tax liability under this
28 chapter for the previous tax year was at least \$2,000.

29 (c) The comptroller may adopt reasonable rules to implement
30 semiannual payments that the comptroller considers advisable.
31 (V.T.I.C. Art. 23.08A, Secs. (a) (part), (f).)

32 Source Law

33 (a) . . . [tax to be paid . . . on] an annual or
34 semiannual basis. . . .

35 (f) The comptroller may elect to collect on a
36 semiannual basis the tax assessed under this article
37 only from insurers whose tax liability under this
38 article for the previous tax year was \$2,000 or more.
39 The comptroller may prescribe and adopt reasonable
40 rules to implement such payments as it deems
41 advisable, not inconsistent with this article.

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Revisor's Note

Section (f), V.T.I.C. Article 23.08A, authorizes the comptroller to "prescribe and adopt . . . rules . . . not inconsistent with this article." The revised law omits "prescribe" as unnecessary because its meaning is included in the meaning of "adopt." The revised law also omits "not inconsistent with this article" as unnecessary because the comptroller does not have the authority to adopt rules that are inconsistent with a state statute.

Revised Law

Sec. 260.005. APPLICABILITY OF OTHER LAW. Sections 201.001 and 201.002 apply to taxes collected under this chapter. (V.T.I.C. Art. 23.08A, Sec. (e).)

Source Law

(e) Article 1.31A of this code applies to taxes collected under this article.

CHAPTER 261. TEXAS INSURANCE EXCHANGE

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CHAPTER 261. TEXAS INSURANCE EXCHANGE

Revised Law

Sec. 261.001. DEFINITION. In this chapter, "exchange" means the Texas Insurance Exchange. (V.T.I.C. Art. 1.14-3, Sec. 1(1).)

Source Law

Art. 1.14-3
Sec. 1. In this article:
(1) "Exchange" means the Texas Insurance Exchange.

Revised Law

Sec. 261.002. MAINTENANCE TAX IMPOSED. A maintenance tax is imposed on the gross premiums paid through the exchange and

1 subject to taxation under Section 261.004. (V.T.I.C. Art. 1.14-3,
2 Sec. 8(a) (part).)

3 Source Law

4 (a) . . . [a maintenance tax] to be paid on
5 . . . gross premiums . . . paid through the
6 exchange. . . .

7 Revised Law

8 Sec. 261.003. MAXIMUM RATE; ANNUAL ADJUSTMENT. (a) The
9 rate of assessment set by the commissioner may not exceed one
10 percent of the gross premiums subject to taxation under Section
11 261.004.

12 (b) The commissioner shall annually adjust the rate of
13 assessment of the maintenance tax so that the tax imposed that year,
14 together with any unexpended funds produced by the tax, produces
15 the amount the commissioner determines is necessary to pay the
16 expenses during the succeeding year of regulating all classes of
17 insurance specified under Article 1.14-3. (V.T.I.C. Art. 1.14-3,
18 Secs. 8(a) (part), (b) (part).)

19 Source Law

20 (a) . . . The rate of assessment may not exceed
21 one percent of the . . . [gross premiums]

22 (b) After taking into account the unexpended
23 funds produced by this tax, if any, the commissioner
24 shall adjust the rate of assessment each year to
25 produce the amount of funds that the commissioner
26 estimates will be necessary to pay all the expenses of
27 regulating all classes of insurance covered by this
28 article during the succeeding year. . . .

29 Revised Law

30 Sec. 261.004. PREMIUMS SUBJECT TO TAXATION. The exchange
31 shall pay maintenance taxes under this chapter on the correctly
32 reported gross premiums paid through the exchange on all classes of
33 insurance specified under Article 1.14-3. (V.T.I.C. Art. 1.14-3,
34 Sec. 8(a) (part).)

35 Source Law

36 (a) . . . [a maintenance tax to be paid on . . .
37 the] correctly reported [gross premiums] on all
38 classes of insurance covered by this article and [paid
39 through the exchange.] . . .

Revised Law

Sec. 261.005. MAINTENANCE TAX DUE DATES. The exchange shall pay the maintenance tax annually, semiannually, or on another periodic basis, as determined by the comptroller. (V.T.I.C. Art. 1.14-3, Sec. 8(a) (part).)

Source Law

(a) . . . [tax to be paid on] an annual, semiannual, or other periodic basis, as determined by the comptroller. . . .

[Chapters 262-270 reserved for expansion]

SUBTITLE D. TITLE INSURANCE MAINTENANCE FEES

CHAPTER 271. TITLE INSURANCE MAINTENANCE FEES

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CHAPTER 271. TITLE INSURANCE MAINTENANCE FEES

Revised Law

Sec. 271.001. APPLICABILITY OF CERTAIN DEFINITIONS. In this chapter, a term defined by Chapter 2501 has the meaning assigned by that chapter. (New.)

Revisor's Note

This chapter is derived from V.T.I.C. Article 9.46, part of the Texas Title Insurance Act. The definitional provisions of the Texas Title Insurance Act that apply throughout that act are revised in

Chapter 2501 of this code. Accordingly, this chapter includes a reference to the applicability of the definitions provided by that chapter of this code.

Revised Law

Sec. 271.002. MAINTENANCE FEE IMPOSED. (a) A maintenance fee is imposed on each insurer with gross premiums subject to assessment under Section 271.006.

(b) The maintenance fee is not a tax and shall be reported and paid separately from premium and retaliatory taxes. (V.T.I.C. Art. 9.46, Sec. (a) (part), as amended Acts 73rd Leg., R.S., Ch. 685, Sec. 3.18; V.T.I.C. Art. 9.46 (part), as amended Acts 73rd Leg., R.S., Ch. 486, Sec. 6.04.)

Source Law

Art. 9.46. [as amended Acts 73rd Leg., R.S., Ch. 685] (a) . . . a maintenance fee to be paid on . . . gross . . . premiums of all authorized insurers [writing title insurance] This fee is not a tax and shall be reported and paid separately from premium and retaliatory taxes. . . .

Art. 9.46. [as amended Acts 73rd Leg., R.S., Ch. 486] . . . shall charge an . . . maintenance fee . . . [not to exceed one percent of] all amounts defined to be premium in this chapter. This fee is not a tax and shall be reported and paid separately from premium and retaliatory taxes. . . .

Revised Law

Sec. 271.003. DUPLICATION OF ASSESSMENT PROHIBITED WITH RESPECT TO TITLE INSURANCE AGENTS. The maintenance fee is included in the division of premiums and may not be separately charged to a title insurance agent. (V.T.I.C. Art. 9.46, Sec. (a) (part), as amended Acts 73rd Leg., R.S., Ch. 685, Sec. 3.18; V.T.I.C. Art. 9.46 (part), as amended Acts 73rd Leg., R.S., Ch. 486, Sec. 6.04.)

Source Law

Art. 9.46. [as amended Acts 73rd Leg., R.S., Ch. 685] (a) . . . The fee is included in the division of premium and may not be separately charged to the title insurance agent. . . .

Art. 9.46. [as amended Acts 73rd Leg., R.S., Ch. 486] . . . The fee is included in the division of premiums and shall not be separately charged to the title insurance agent. . . .

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1 general revenue fund, the revised law throughout this
2 chapter substitutes a requirement that "the
3 appropriate portion of the general revenue fund" be
4 reimbursed. This substitution reflects the clear
5 intent of the legislature that money be transferred
6 from the Texas Department of Insurance operating
7 account to a portion of the general revenue fund from
8 which the money may be appropriated to pay for the
9 comptroller's expenses incurred in performing duties
10 under the Insurance Code. It is clear from the
11 reference to a reimbursement "under Article 4.19" in
12 Section (b) that the intent of the legislature is for
13 Article 4.19 to apply to the revised law, even though
14 the revised law concerns a maintenance fee rather than
15 a maintenance tax.

16 Revised Law

17 Sec. 271.005. MAXIMUM RATE; ANNUAL ADJUSTMENT. (a) The
18 rate of assessment set by the commissioner may not exceed one
19 percent of the gross premiums subject to assessment under Section
20 271.006.

21 (b) The commissioner shall annually adjust the rate of
22 assessment of the maintenance fee so that the fee imposed that year,
23 together with any unexpended funds produced by the fee, produces
24 the amount the commissioner determines is necessary to pay the
25 expenses during the succeeding year of regulating title insurance.
26 (V.T.I.C. Art. 9.46, Secs. (a) (part), (b) (part), as amended Acts
27 73rd Leg., R.S., Ch. 685, Sec. 3.18; V.T.I.C. Art. 9.46 (part), as
28 amended Acts 73rd Leg., R.S., Ch. 486, Sec. 6.04.)

29 Source Law

30 Art. 9.46. [as amended Acts 73rd Leg., R.S., Ch.
31 685] (a) . . . The rate of assessment may not exceed
32 one percent of the . . . [gross . . . premiums] . . .
33 (b) The commissioner, after taking into account
34 the unexpended funds produced by this fee, if any,
35 shall adjust the rate of assessment each year to
36 produce the amount of funds that it estimates will be
37 necessary to pay all the expenses of regulating title
38 insurance during the succeeding year. . . .

1 Art. 9.46. [as amended Acts 73rd Leg., R.S., Ch.
2 486] . . . necessary to pay the expenses of the
3 regulation of title insurers and title insurance
4 agents during the succeeding year. . . . [the rate of
5 assessment] . . . in an amount not to exceed one
6 percent of [all amounts defined to be premium in this
7 chapter] . . . The State Board of Insurance, after
8 taking into account the unexpended funds produced by
9 this fee, if any, shall adjust the rate of assessment
10 each year to produce the amount of funds that it
11 estimates will be necessary to pay all the expenses of
12 regulating title insurance during the succeeding
13 year. . . .

14 Revised Law

15 Sec. 271.006. PREMIUMS SUBJECT TO ASSESSMENT. An insurer
16 shall pay maintenance fees under this chapter on the correctly
17 reported gross premiums from writing title insurance in this state.
18 (V.T.I.C. Art. 9.46, Sec. (a) (part), as amended Acts 73rd Leg.,
19 R.S., Ch. 685, Sec. 3.18.)

20 Source Law

21 Art. 9.46. [as amended Acts 73rd Leg., R.S., Ch.
22 685] (a) . . . [a maintenance fee to be paid
23 on . . . the] correctly reported [gross] title
24 insurance [premiums of all authorized insurers]
25 writing title insurance in this state. . . .

26 Revised Law

27 Sec. 271.007. COLLECTION OF MAINTENANCE FEE. The
28 comptroller shall collect the maintenance fee. (V.T.I.C.
29 Art. 9.46, Sec. (a) (part), as amended Acts 73rd Leg., R.S., Ch.
30 685, Sec. 3.18.)

31 Source Law

32 Art. 9.46. [as amended Acts 73rd Leg., R.S., Ch.
33 685] (a) . . . The comptroller shall collect the
34 maintenance fee.

35 Revisor's Note

36 V.T.I.C. Article 9.46, which addresses
37 maintenance fees assessed against insurers writing
38 title insurance, was amended by Section 6.04, Chapter
39 486, Acts of the 73rd Legislature, Regular Session,
40 1993, and by Section 3.18, Chapter 685, Acts of the
41 73rd Legislature, Regular Session, 1993. The
42 amendments address administration, collection, and
43 deposit of a maintenance fee and any unexpended

1 balance.

2 Section 312.014(b), Government Code, applicable
3 to Article 9.46, provides that if amendments to the
4 same statute are enacted during the same session of the
5 legislature, one amendment without reference to the
6 other, the amendments shall be harmonized, if
7 possible, so that effect may be given to each. If the
8 amendments are irreconcilable, the latest in date of
9 enactment prevails.

10 The amendments made by Chapters 486 and 685 are
11 irreconcilable in that Chapter 486 requires the State
12 Board of Insurance to collect the maintenance fee.
13 Chapter 685, however, requires the comptroller to
14 collect that fee.

15 Section 312.014(d), Government Code, provides
16 that the date of enactment of a statute is the date on
17 which the last legislative vote was taken on the bill
18 enacting the statute. The date on which the last
19 legislative vote was taken on the bill enacting
20 Chapter 486 was May 24, 1993. The date on which the
21 last legislative vote was taken on the bill enacting
22 Chapter 685 was May 30, 1993. Therefore, according to
23 Section 312.014(b), Government Code, the amendments to
24 Article 9.46 by Chapter 685 are the latest in date of
25 enactment and prevail over the amendments by Chapter
26 486 to the extent that the chapters cannot be
27 harmonized. The revised law reflects the amendments
28 made to Article 9.46 by Chapter 685. The omitted law
29 reads:

30 Art. 9.46. [as amended Acts 73rd
31 Leg., R.S., Ch. 486] . . . [The State
32 Board of Insurance shall] . . . collect a
33 maintenance fee

34 Revised Law

35 Sec. 271.008. DUTY TO ADVISE COMPTROLLER OF RATE. The

1 commissioner shall advise the comptroller of the applicable rate of
2 assessment of the maintenance fee not later than the 45th day before
3 the due date of the maintenance fee return for the period for which
4 that fee is due. (V.T.I.C. Art. 9.46, Sec. (e) (part), as amended
5 Acts 73rd Leg., R.S., Ch. 685, Sec. 3.18.)

6 Source Law

7 (e) [as amended Acts 73rd Leg., R.S., Ch. 685]
8 The commissioner shall advise the comptroller of the
9 applicable rate of assessment no later than the date 45
10 days prior to the due date of the maintenance fee
11 return for the period for which such fees are
12 due. . . .

13 Revised Law

14 Sec. 271.009. EFFECT OF LATE ADVISEMENT OF
15 RATE. (a) Except as provided by Subsection (b), if the
16 commissioner does not advise the comptroller of the applicable rate
17 of assessment of the maintenance fee by the date required by Section
18 271.008, the rate of assessment is the rate imposed in the preceding
19 period.

20 (b) If the commissioner advises the comptroller of the
21 applicable rate of assessment after the fee has been assessed, the
22 comptroller shall:

23 (1) advise each insurer in writing of the amount of any
24 additional fees due; or

25 (2) refund any excess fees paid. (V.T.I.C. Art. 9.46,
26 Sec. (e) (part), as amended Acts 73rd Leg., R.S., Ch. 685, Sec.
27 3.18.)

28 Source Law

29 (e) [as amended Acts 73rd Leg., R.S., Ch.
30 685] . . . If the commissioner has not advised the
31 comptroller of the applicable rate by such date, the
32 applicable rate shall be the rate applied in the
33 previous period. If the commissioner advises the
34 comptroller of the applicable rate of assessment after
35 maintenance fees have been assessed pursuant to this
36 subsection, the comptroller shall:

37 (1) advise each insurer in writing of the
38 amount of any additional maintenance fees due; or

39 (2) refund any excess maintenance fees
40 paid.

41 Revised Law

42 Sec. 271.010. DEPOSIT OF MAINTENANCE FEES. (a) The

1 comptroller shall deposit maintenance fees collected under this
2 chapter in the general revenue fund to be reallocated to the Texas
3 Department of Insurance operating account.

4 (b) Amounts in the Texas Department of Insurance operating
5 account may be transferred to the appropriate portion of the
6 general revenue fund in accordance with Section 201.052. (V.T.I.C.
7 Art. 9.46, Sec. (c), as amended Acts 73rd Leg., R.S., Ch. 685, Sec.
8 3.18; V.T.I.C. Art. 9.46 (part), as amended Acts 73rd Leg., R.S.,
9 Ch. 486, Sec. 6.04.)

10 Source Law

11 (c) [as amended Acts 73rd Leg., R.S., Ch. 685]
12 The fees collected shall be deposited in the State
13 Treasury to the credit of the general revenue fund to
14 be reallocated to the Texas Department of Insurance
15 operating fund and shall be spent as authorized by
16 legislative appropriation on warrants issued by the
17 comptroller pursuant to duly certified requisitions of
18 the commissioner. Amounts reallocated to the Texas
19 Department of Insurance operating fund under this
20 subsection may be transferred to the general revenue
21 fund in accordance with Article 4.19 of this code.

22 Art. 9.46. [as amended Acts 73rd Leg., R.S., Ch.
23 486] . . . The fees collected shall be deposited in
24 the State Treasury to the credit of the State Board of
25 Insurance operating fund and shall be spent as
26 authorized by legislative appropriation only on
27 warrants issued by the comptroller of public accounts
28 pursuant to duly certified requisitions of the State
29 Board of Insurance. . . .

30 Revisor's Note

31 (1) Section (c), V.T.I.C. Article 9.46, as
32 amended by Section 3.18, Chapter 685, Acts of the 73rd
33 Legislature, Regular Session, 1993, states that
34 maintenance fees shall be "deposited in the State
35 Treasury to the credit of the general revenue fund to
36 be reallocated to the Texas Department of Insurance
37 operating fund." V.T.I.C. Article 9.46, as amended by
38 Section 6.04, Chapter 486, Acts of the 73rd
39 Legislature, Regular Session, 1993, states that
40 maintenance fees shall be "deposited in the State
41 Treasury to the credit of the State Board of Insurance
42 operating fund." Under Chapter 4, Acts of the 72nd

1 Legislature, 1st Called Session, 1991, the Texas
2 Department of Insurance operating fund (the later name
3 of the State Board of Insurance operating fund) was
4 converted to an account in the general revenue fund.
5 The revised law is drafted accordingly.

6 (2) Section (c), V.T.I.C. Article 9.46, as
7 amended by Section 3.18, Chapter 685, Acts of the 73rd
8 Legislature, Regular Session, 1993, states that
9 maintenance fees shall be "spent as authorized by
10 legislative appropriation on warrants issued by the
11 comptroller pursuant to duly certified requisitions of
12 the commissioner." V.T.I.C. Article 9.46, as amended
13 by Section 6.04, Chapter 486, Acts of the 73rd
14 Legislature, Regular Session, 1993, states that
15 maintenance fees shall be "spent as authorized by
16 legislative appropriation only on warrants issued by
17 the comptroller of public accounts pursuant to duly
18 certified requisitions of the State Board of
19 Insurance." The revised law omits as unnecessary that
20 part of the provision relating to the expenditure of
21 money as authorized by legislative appropriation
22 because Section 6, Article VIII, Texas Constitution,
23 provides that "[n]o money shall be drawn from the
24 Treasury but in pursuance of specific appropriations
25 made by law." The revised law also omits as
26 unnecessary that part of the provision relating to
27 warrants issued by the comptroller pursuant to
28 certified requisitions of the commissioner because it
29 is substantively duplicative of provisions contained
30 in Chapter 2103, Government Code, which is a
31 comprehensive law covering procedures for withdrawing
32 money from the state treasury.

33 Revised Law

34 Sec. 271.011. MAINTENANCE FEE DUE DATES. (a) The insurer

1 shall pay the maintenance fee on an annual, semiannual, or other
2 periodic basis, as determined by the comptroller.

3 (b) The comptroller may require semiannual or other
4 periodic payment only from an insurer whose maintenance fee
5 liability under this chapter for the preceding year was at least
6 \$2,000. (V.T.I.C. Art. 9.46, Secs. (a) (part), (d), as amended
7 Acts 73rd Leg., R.S., Ch. 685, Sec. 3.18.)

8 Source Law

9 Art. 9.46. [as amended Acts 73rd Leg., R.S., Ch.
10 685] (a) . . . [fee be paid on] an annual,
11 semiannual, or other periodic basis, as determined by
12 the comptroller. . . .

13 (d) The comptroller may elect to collect on a
14 semiannual or other periodic basis the fee assessed
15 under this article only from insurers whose liability
16 under this article for the previous year was \$2,000 or
17 more.

18 Revisor's Note

19 V.T.I.C. Article 9.46, as amended by Section
20 6.04, Chapter 486, Acts of the 73rd Legislature,
21 Regular Session, 1993, provides for assessment of an
22 "annual" maintenance fee and provides for collection
23 of the fee from certain insurers by the State Board of
24 Insurance "on a semiannual basis." Sections (a) and
25 (d), V.T.I.C. Article 9.46, as amended by Section
26 3.18, Chapter 685, Acts of the 73rd Legislature,
27 Regular Session, 1993, however, provide for assessment
28 of a maintenance fee "on an annual, semiannual, or
29 other periodic basis, as determined by the
30 comptroller" and provide for collection of the fee
31 from certain insurers by the comptroller "on a
32 semiannual or other periodic basis." For the reasons
33 described by the revisor's note to Section 271.007, the
34 revised law reflects the amendments made to Article
35 9.46 by Chapter 685. The omitted law reads:

36 Art. 9.46. [as amended Acts 73rd
37 Leg., R.S., Ch. 486] . . . [an] annual
38 [maintenance fee] . . . The State Board of
39 Insurance shall collect on a semiannual

1 basis the fee assessed under this article
2 only from insurers whose liability under
3 this article for the previous year was
4 \$2,000 or more. . . .

5 Revised Law

6 Sec. 271.012. RULES. The commissioner may adopt
7 reasonable rules to implement payments under this chapter.
8 (V.T.I.C. Art. 9.46 (part), as amended Acts 73rd Leg., R.S., Ch.
9 486, Sec. 6.04.)

10 Source Law

11 Art. 9.46. [as amended Acts 73rd Leg., R.S., Ch.
12 486] . . . The State Board of Insurance may prescribe
13 and adopt reasonable rules to implement such payments
14 as it deems advisable, not inconsistent with this
15 article.

16 Revisor's Note

17 V.T.I.C. Article 9.46, as amended by Section
18 6.04, Chapter 486, Acts of the 73rd Legislature,
19 Regular Session, 1993, authorizes the commissioner to
20 "prescribe and adopt . . . rules . . . not
21 inconsistent with this article." The revised law
22 omits "prescribe" as unnecessary because its meaning
23 is included in the meaning of "adopt." The revised law
24 also omits "not inconsistent with this article" as
25 unnecessary because the commissioner does not have the
26 authority to adopt rules that are inconsistent with a
27 state statute.

28 [Chapters 272-280 reserved for expansion]

29 SUBTITLE E. OTHER TAXES

30 CHAPTER 281. RETALIATORY PROVISIONS

31 SUBCHAPTER A. RETALIATORY TAXES AND OTHER CHARGES

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10	SUBCHAPTER A. RETALIATORY		
11	TAXES AND OTHER CHARGES		
12	<u>Revised Law</u>		
13	Sec. 281.001.	DEFINITIONS. In this subchapter:	
14	(1)	"Domestic insurer" means an insurer organized in	
15		this state.	
16	(2)	"Foreign insurer" means an insurer organized in	
17		another state.	
18	(3)	"Tax or other charge" includes:	
19	(A)	a tax, including an income, corporate	
20		franchise, or maintenance tax;	
21	(B)	a fee, including a regulatory fee similar to	
22		a maintenance tax;	
23	(C)	a license;	
24	(D)	a fine;	
25	(E)	a penalty;	
26	(F)	a deposit requirement; and	
27	(G)	any other obligation. (V.T.I.C. Art. 21.46,	
28	Sec. 1(a) (part).)		
29	<u>Source Law</u>		
30	Art. 21.46		
31	Sec. 1. (a)	Whenever . . . any taxes,	
32		including maintenance or similar regulatory fees,	
33		income and corporate franchise, licenses, fees, fines,	
34		penalties, deposit requirements or other obligations	
35		. . . [are imposed upon] any insurance company that is	
36		organized in this State and . . . [are in excess of]	
37		. . . the taxes, including maintenance or similar	
38		regulatory fees, income and corporate franchise,	

1 licenses, fees, fines, penalties, deposit
2 requirements or other obligations, . . . [directly
3 imposed upon] a similar insurance company of such
4 other state or

5 Revisor's Note

6 The definitions of "domestic insurer," "foreign
7 insurer," and "tax or other charge" are added to the
8 revised law for drafting convenience and to eliminate
9 frequent, unnecessary repetition of the substance of
10 the defined terms.

11 Revised Law

12 Sec. 281.002. TREATMENT OF ALIEN INSURER AS FOREIGN
13 INSURER. For purposes of this subchapter, an alien insurer is
14 considered to be organized in the state designated by the insurer in
15 which the insurer:

16 (1) has established its principal office or agency in
17 the United States;

18 (2) maintains the greatest amount of its assets held
19 in trust or on deposit for the security of its policyholders or
20 policyholders and creditors in the United States; or

21 (3) was admitted to engage in business in the United
22 States. (V.T.I.C. Art. 21.46, Sec. 1(c).)

23 Source Law

24 (c) For the purpose of this Section, an alien
25 insurer shall be deemed a company of the State
26 designated by it wherein it:

27 (1) has established its principal office
28 or agency in the United States;

29 (2) maintains the largest amount of its
30 assets held in trust or on deposit for the security of
31 its policyholders or policyholders and creditors in
32 the United States; or

33 (3) was admitted to do business in the
34 United States.

35 Revised Law

36 Sec. 281.003. EXCEPTION. This subchapter does not apply to
37 a person, company, firm, association, group, corporation, or
38 insurance organization of any kind from another state that engages
39 in business in this state if:

40 (1) at least 15 percent of the voting stock of the
41 person, company, firm, association, group, corporation, or

1 insurance organization is owned by a corporation organized under
2 the laws of and domiciled in this state; and

3 (2) the person, company, firm, association, group,
4 corporation, or insurance organization met the requirements of
5 Subdivision (1) before January 30, 1957. (V.T.I.C. Art. 21.46,
6 Sec. (f).)

7 Source Law

8 (f) The provisions of this Act shall not apply
9 to a company of any other state doing business in this
10 State if fifteen per cent (15%) or more of the voting
11 stock of said company is owned by a corporation
12 organized under the laws of this State, and domiciled
13 in this State; however, the prior provisions of this
14 Act shall apply without exception to any and all person
15 or persons, company or companies, firm or firms,
16 association or associations, group or groups,
17 corporation or corporations, or any insurance
18 organization or organizations of any kind, which did
19 not qualify as a matter of fact, under the exception of
20 this paragraph, on or before January 29, 1957.

21 Revisor's Note

22 Section 1(f), V.T.I.C. Article 21.46, as added by
23 Chapter 396, Acts of the 55th Legislature, Regular
24 Session, 1957, refers to "provisions of this Act" that
25 do not apply to certain insurers. Section 2, V.T.I.C.
26 Article 21.46, as added by Section 20.24, Chapter 685,
27 Acts of the 73rd Legislature, Regular Session, 1993,
28 and revised in Subchapter B of this chapter, requires
29 the Texas Department of Insurance to apply certain
30 penalties to insurers "without exception or
31 exclusion." Because Section 2 specifically precludes
32 any exceptions to its application, the revised law
33 limits the scope of the earlier exception created by
34 Chapter 396, Acts of the 55th Legislature, Regular
35 Session, 1957, to Subchapter A only.

36 Revised Law

37 Sec. 281.004. RETALIATORY TAXES OR OTHER CHARGES,
38 PROHIBITIONS, AND RESTRICTIONS. (a) The comptroller shall impose
39 and collect a tax or other charge or a prohibition or restriction on
40 a foreign insurer authorized to engage in business in this state if:

1 (1) the foreign insurer's state of organization by law
2 imposes a tax or other charge or a prohibition or restriction on a
3 similar domestic insurer that is or may be authorized to engage in
4 business in that other state; and

5 (2) the sum of the taxes or other charges,
6 prohibitions, and restrictions imposed by that other state is more
7 than the sum of the taxes or other charges, prohibitions, and
8 restrictions that this state directly imposes on the foreign
9 insurer.

10 (b) The comptroller shall impose and collect the tax or
11 other charge, prohibition, or restriction under Subsection (a) in
12 the same manner and for the same purpose as the foreign insurer's
13 state of organization.

14 (c) The sum of the taxes or other charges that this state
15 imposes on a foreign insurer under this subchapter may not exceed
16 the sum of the taxes or other charges imposed by the foreign
17 insurer's state of organization on a similar domestic insurer that
18 is or may be authorized to engage in business in that other state.
19 (V.T.I.C. Art. 21.46, Sec. 1(a).)

20 Source Law

21 Sec. 1. (a) Whenever by the laws of any other
22 state or territory of the United States any taxes,
23 including maintenance or similar regulatory fees,
24 income and corporate franchise, licenses, fees, fines,
25 penalties, deposit requirements or other obligations,
26 prohibitions or restrictions are imposed upon any
27 insurance company that is organized in this State and
28 licensed and is doing business or that may do business
29 in such other state or territory which, in the
30 aggregate are in excess of the aggregate of the taxes,
31 including maintenance or similar regulatory fees,
32 income and corporate franchise, licenses, fees, fines,
33 penalties, deposit requirements or other obligations,
34 prohibitions or restrictions directly imposed upon a
35 similar insurance company of such other state or
36 territory doing business in this State, the
37 comptroller shall impose upon and collect from any
38 similar company of such state or territory in the same
39 manner and for the same purpose, the same taxes,
40 licenses, fees, fines, penalties, deposit
41 requirements or other obligations, prohibitions or
42 restrictions; provided, however, the aggregate of
43 taxes, licenses, fees, fines, penalties or other
44 obligations imposed by this State pursuant to this
45 Article on an insurance company of another state or
46 territory shall not exceed the aggregate of such
47 charges imposed by such other state or territory on a

1 similar insurance company of this State that may be
2 licensed and doing business.

3 Revisor's Note

4 (1) Section 1(a), V.T.I.C. Article 21.46,
5 refers to an insurance company that is "licensed and
6 is doing business" in another state. Throughout this
7 chapter, the revised law substitutes "authorized to
8 engage in business" for "licensed and is doing
9 business" because states issue a variety of documents
10 that authorize companies to engage in business, and
11 the meaning of "authorized to engage in business"
12 includes the concept of holding a license, a
13 certificate of authority, or any other document issued
14 by a state agency or official to authorize that
15 activity.

16 (2) Section 1, V.T.I.C. Article 21.46, refers to
17 taxes or other charges imposed under "this Article."
18 Throughout this chapter, the revised law refers to
19 taxes or other charges imposed under "this subchapter"
20 instead because it is clear, in context, that Section
21 1, V.T.I.C. Article 21.46, refers only to charges
22 imposed under that section, and that law has been
23 revised as Subchapter A.

24 Revised Law

25 Sec. 281.005. EXCLUSION OF CERTAIN TAXES OR CHARGES. In
26 determining an insurer's taxes or other charges under this
27 subchapter, the comptroller may not consider:

- 28 (1) an ad valorem tax on property;
29 (2) a personal income tax;
30 (3) a sales tax;
31 (4) a surcharge that an insurer may recover directly
32 from policyholders; or
33 (5) an assessment for a special purpose, such as an
34 assessment for a guaranty association, high risk health pool, joint
35 underwriting association, or windstorm association, under the law

1 of this or another state. (V.T.I.C. Art. 21.46, Secs. 1(e), (g)
2 (part).)

3 Source Law

4 (e) The provisions of this Section shall not
5 apply to ad valorem taxes on real or personal property,
6 personal income taxes, sales taxes, or to surcharges
7 that insurers may recoup directly from policyholders.

8 (g) The provisions of this Section shall not
9 apply to special purpose assessments, such as guaranty
10 association assessments, high risk health pool
11 assessments, joint underwriting association (JUA)
12 assessments, windstorm association assessments, or
13 other similar assessments, both under the laws of this
14 State and under the laws of any other state or
15 territory. . . .

16 Revisor's Note

17 (1) Section 1(e), V.T.I.C. Article 21.46,
18 refers to "real or personal property." The revised law
19 omits "real or personal" because Section 311.005(4),
20 Government Code (Code Construction Act), applicable to
21 the revised law, defines "property" to mean "real and
22 personal property."

23 (2) Section 1(g), V.T.I.C. Article 21.46,
24 refers to laws of "any other state or territory."
25 Throughout this chapter, the revised law omits
26 references to "territory" as unnecessary because
27 Section 311.005(7), Government Code (Code
28 Construction Act), applicable to the revised law,
29 provides that "state," when referring to a part of the
30 United States, includes any state or territory of the
31 United States.

32 Revised Law

33 Sec. 281.006. TREATMENT OF CERTAIN TAX REDUCTIONS AND
34 CREDITS. (a) If another state by law reduces a tax rate or grants
35 a tax credit to a domestic insurer that makes an investment in or
36 maintains offices in that state or that meets a similar
37 requirement, the law that reduces the rate or grants the credit
38 shall be applied in the same manner in this state for the purpose of
39 determining the total taxes or other charges under this subchapter.

1 (b) For purposes of this subchapter, a tax offset or credit
2 related to an assessment described by Section 281.005 is considered
3 a tax paid in this or another state, as appropriate. (V.T.I.C.
4 Art. 21.46, Secs. 1(b), (g) (part).)

5 Source Law

6 (b) Whenever under the law of any state or
7 territory the rate of taxation is reduced or a tax
8 credit is granted to any such company making
9 investments in the state or territory, having
10 maintained offices in the state or territory, or
11 meeting some other similar requirements of the state
12 or territory, those laws shall be applied in the same
13 manner in this state in the determination of the
14 aggregate obligations under this Article.

15 (g) . . . Any tax offset or credit related to
16 such assessments that is offset or credited in
17 computing aggregate taxes under this Section for this
18 State and any other state or territory, shall, for
19 purposes of this Section, be treated as a tax paid both
20 under the laws of this State and under the laws of any
21 other state or territory.

22 Revised Law

23 Sec. 281.007. TAX REPORT; ADMINISTRATION AND COLLECTION OF
24 TAX. The comptroller shall prescribe a due date for filing a
25 report and paying a tax imposed under this subchapter. (V.T.I.C.
26 Art. 21.46, Sec. 1(d) (part).)

27 Source Law

28 (d) . . . The comptroller shall prescribe the
29 due date for the filing of the report and payment of
30 the tax under this Article. . . .

31 Revisor's Note

32 (1) Section 1(d), V.T.I.C. Article 21.46,
33 requires a tax collected under this subchapter to be
34 deposited to the credit of the general revenue fund.
35 The revised law omits that requirement because Section
36 404.094, Government Code, requires all money,
37 including the referenced taxes, that is collected or
38 received by a state agency to be deposited to the
39 credit of the general revenue fund, and it is not
40 necessary to repeat that requirement in the revised
41 law. The omitted law reads:

42 (d) A tax collected by the

1 comptroller under this Article shall be
2 deposited in the State Treasury to the
3 credit of the general revenue fund. . . .

4 (2) Section 1(d), V.T.I.C. Article 21.46,
5 states that the comptroller may adopt rules regarding
6 the administration and collection of taxes under that
7 article. The revised law omits that provision as
8 unnecessary because Section (c), V.T.I.C. Article
9 1.04D, revised in this code in Section 201.051,
10 authorizes the comptroller to adopt rules necessary to
11 administer and collect insurance taxes. The omitted
12 law reads:

13 (d) . . . The comptroller may adopt
14 rules concerning the administration and
15 collection of taxes under this Article.

16 [Sections 281.008-281.050 reserved for expansion]

17 SUBCHAPTER B. RETALIATORY PENALTIES OR OTHER OBLIGATIONS

18 Revised Law

19 Sec. 281.051. DEFINITIONS. In this subchapter:

20 (1) "Domestic insurer" and "foreign insurer" have the
21 meanings assigned by Section 281.001.

22 (2) "Penalty or other obligation" includes a sanction,
23 fine, financial, deposit, or regulatory requirement, and any other
24 obligation, prohibition, or restriction. (V.T.I.C. Art. 21.46,
25 Sec. 2 (part).)

26 Source Law

27 Sec. 2. [Should the insurance department . . .
28 of any other state . . . impose] any sanctions, fines,
29 penalties, financial or deposit requirements,
30 prohibitions, restrictions, regulatory requirements,
31 or other obligations of any kind upon any insurance
32 company organized or chartered in this state . . .
33 [the Texas Department of Insurance shall . . . impose
34 upon] any and all insurance companies organized or
35 chartered in such other state . . . the same
36 sanctions, fines, penalties, deposit requirements,
37 prohibitions, restrictions, or other
38 obligations

39 Revisor's Note

40 (1) The definitions of "domestic insurer" and
41 "foreign insurer" and the list of terms included in the
42 meaning of "penalty or other obligation" are added to

1 the revised law for drafting convenience and to
2 eliminate frequent, unnecessary repetition of the
3 substance of those terms.

4 (2) Section 2, V.T.I.C. Article 21.46, refers to
5 an "insurance company organized or chartered in this
6 state." The revised law incorporates that reference
7 into the definition of "domestic insurer" through the
8 cross-reference to the meaning assigned by Section
9 281.001, but omits the reference to "chartered"
10 because "chartered" is included in the meaning of
11 "organized."

12 Revised Law

13 Sec. 281.052. IMPOSITION OF PENALTY OR OTHER
14 OBLIGATION. (a) The Texas Department of Insurance shall impose a
15 penalty or other obligation on a foreign insurer authorized to
16 engage in the business of insurance in this state if:

17 (1) the insurance department or an insurance
18 regulatory official of the foreign insurer's state of organization
19 imposes a penalty or other obligation on any domestic insurer
20 authorized to engage in the business of insurance in that state; and

21 (2) the penalty or other obligation is imposed because
22 the Texas Department of Insurance did not:

23 (A) obtain or maintain accreditation
24 certification or a similar form of approval, compliance, or
25 acceptance from or as a member of the National Association of
26 Insurance Commissioners or a committee, task force, working group,
27 or advisory committee of the association; or

28 (B) comply with a model act, regulation, report,
29 or requirement of the National Association of Insurance
30 Commissioners or a committee, task force, working group, or
31 advisory committee of the association, including a market conduct,
32 financial examination, or annual financial statement.

33 (b) A penalty or other obligation imposed by the Texas
34 Department of Insurance on a foreign insurer under this section

1 must be the same as the penalty or other obligation imposed on the
2 domestic insurer by the insurance department or regulatory official
3 of the foreign insurer's state of organization. (V.T.I.C.
4 Art. 21.46, Sec. 2.)

5 Source Law

6 Sec. 2. Should the insurance department,
7 commissioner, director, or other similar insurance
8 regulatory official of any other state or territory of
9 the United States impose any sanctions, fines,
10 penalties, financial or deposit requirements,
11 prohibitions, restrictions, regulatory requirements,
12 or other obligations of any kind upon any insurance
13 company organized or chartered in this state and
14 licensed to transact business in such other state or
15 territory, because of the failure of the Texas
16 Department of Insurance to obtain, maintain, or
17 receive accreditation certification or any similar
18 form of approval, compliance, or acceptance from, by,
19 or as a member of the National Association of Insurance
20 Commissioners, or any committee, task force, working
21 group, or advisory committee thereof, or because of
22 the failure of the Texas Department of Insurance to
23 comply with any directive, financial annual statement
24 requirement, model act or regulation, market conduct
25 or financial examination report or requirement, or any
26 report of any kind of the National Association of
27 Insurance Commissioners, or any committee, task force,
28 working group, or advisory committee thereof, the
29 Texas Department of Insurance shall, without exception
30 or exclusion, impose upon any and all insurance
31 companies organized or chartered in such other state
32 or territory and licensed to do business in this state
33 the same sanctions, fines, penalties, deposit
34 requirements, prohibitions, restrictions, or other
35 obligations imposed upon the insurance company of this
36 state.

37 Revisor's Note

38 (1) Section 2, V.T.I.C. Article 21.46, refers to
39 an "insurance department, commissioner, director, or
40 other similar insurance regulatory official." The
41 revised law omits the references to "commissioner or
42 director" because those officials are included in the
43 meaning of "insurance regulatory official."

44 (2) Section 2, V.T.I.C. Article 21.46, refers to
45 a failure to "obtain . . . or receive accreditation
46 certification." The revised law omits the reference
47 to "receive" because "receive" is included in the
48 meaning of "obtain."

49 (3) Section 2, V.T.I.C. Article 21.46, refers to

1 a failure to comply with a "directive . . . or
2 requirement" of the National Association of Insurance
3 Commissioners. The revised law omits the reference to
4 "directive" because "directive" is included in the
5 meaning of "requirement."

6 TITLE 5. PROTECTION OF CONSUMER INTERESTS

7 SUBTITLE A. PUBLIC INSURANCE COUNSEL

8 CHAPTER 501. OFFICE OF PUBLIC INSURANCE COUNSEL

9 [Chapters 502-520 reserved for expansion]

10 SUBTITLE B. CONSUMER SERVICE PROVISIONS

11 CHAPTER 521. CONSUMER INFORMATION AND COMPLAINTS

12 CHAPTER 522. CONSUMER INFORMATION IN SPANISH

13 CHAPTER 523. MARKET ASSISTANCE PROGRAM FOR

14 RESIDENTIAL PROPERTY INSURANCE

15 [Chapters 524-540 reserved for expansion]

16 SUBTITLE C. DECEPTIVE, UNFAIR, AND PROHIBITED PRACTICES

17 CHAPTER 541. UNFAIR METHODS OF COMPETITION AND UNFAIR OR

18 DECEPTIVE ACTS OR PRACTICES

19 CHAPTER 542. PROCESSING AND SETTLEMENT OF CLAIMS

20 CHAPTER 543. PROHIBITED PRACTICES RELATED TO POLICY OR

21 CERTIFICATE OF MEMBERSHIP

22 CHAPTER 544. PROHIBITED DISCRIMINATION

23 CHAPTER 545. HIV TESTING

24 CHAPTER 546. USE OF GENETIC TESTING INFORMATION

25 CHAPTER 547. FALSE ADVERTISING BY UNAUTHORIZED

26 INSURERS

27 CHAPTER 548. INSURER INSIDER TRADING AND PROXY

28 REGULATION

29 CHAPTER 549. PROHIBITED PRACTICES RELATING TO

30 PROPERTY INSURANCE

31 CHAPTER 550. PROHIBITED PRACTICES RELATING TO PAYMENTS

32 CHAPTER 551. PROHIBITED PRACTICES RELATING TO DECLINATION,

33 CANCELLATION, AND NONRENEWAL OF INSURANCE

34 POLICIES